

# ANNEXURE F AA6 TEMPLATE SERVICE AGREEMENT (CLEAN)

DRAFT DECISION RESPONSE 2025-29

PUBLIC



EIM # 114110536



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**ATCO**

# TEMPLATE SERVICE AGREEMENT

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Contract number: TBC

1 September 2023

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## Parties

ATCO Gas Australia Pty Ltd

ABN 90 089 531 975 (<**Service Provider**>)

[Insert name of User]

[*insert ABN/ACN/ARBN*] (<**Counterparty**>)

## Recitals

- A. **<Service Provider>**:
- (a) owns and operates the ATCO GDS; and
  - (b) provides Reference Services by means of the ATCO GDS, in accordance with the Regulatory Instruments.
- B. The ATCO GDS is a Covered Pipeline under the National Gas Access Law.
- C. On 18 July 2000, the Regulator approved the Access Arrangement for the ATCO GDS in accordance with the Code.
- 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. The Access Arrangement will continue to be revised under the Access Laws, while remaining at all times consistent with the National Gas Objective.
- E. **<Counterparty>** wants to obtain access to one or more Reference Services provided by **<Service Provider>** by means of the ATCO GDS, and recognises that, in doing so, **<Counterparty>** will be subject to certain obligations under the Regulatory Instruments.
- F. In accordance with the requirements set out in the Access Laws, this Service Agreement specifies the terms and conditions upon which **<Service Provider>** will provide **<Counterparty>** with access to one or more Reference Services for the haulage of Gas from specified Receipt Points to specified Delivery Points on the ATCO GDS, including **<Counterparty>**'s obligations to be performed in consideration for **<Service Provider>**'s provision of access and under the Regulatory Instruments.

## 1. Conditions Precedent

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



- (c) **<Counterparty>** 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 Precedents referred to in clause 1(a)(i) and clause 1(a)(ii) **<Service Provider>** must promptly advise **<Counterparty>** 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 **<Counterparty>** .
- (f) The Condition Precedent in clause 1(a)(i) is for the benefit of both parties and may only be varied or waived by agreement between the parties.
- (g) If each Condition Precedent has not been duly satisfied or waived within 30 Business Days after the date of this Service Agreement, **<Service Provider>** may, in its absolute discretion, terminate this Service Agreement by written notice to **<Counterparty>** , without further liability for either party.

## 2. Duration of this Service Agreement

Subject to clause 1, this Service Agreement:

- (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 **<Counterparty>** is no longer entitled to take delivery of Gas at any Delivery Point under this Service Agreement; and
  - (ii) the date on which this Service Agreement is terminated in accordance with its terms.

### 3. Reference Services Provided

This Service Agreement specifies the terms and conditions on which **<Service Provider>** agrees to provide **<Counterparty>** with access to the Reference Services by means of the ATCO GDS in accordance with the Regulatory Instruments, including the Access Laws and the Retail Market Procedures.

## 4. Fees and Charges

### 4.1 Obligation to pay for Reference Services

<Counterparty> must pay to <Service Provider>:

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

### 4.2 Claiming payment of Charges

- (a) <Service Provider> must claim payment from <Counterparty> for Charges and other amounts payable under this Service Agreement in accordance with clause 10.
- (b) A failure by <Service Provider> to claim payment of Charges in accordance with clause 4.2(a) will not affect <Counterparty>'s obligation to make, or <Service Provider>'s right to receive, such payment under this Service Agreement 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 <Counterparty> to <Service Provider> under this Service Agreement or at Law.

### 4.3 Ongoing obligation to pay

Subject to clause 4.4, <Counterparty> must pay <Service Provider> any applicable Charges and other amounts payable under this Service Agreement in accordance with clause 4.1 even if:

- (a) <Service Provider> is unable to provide, undertake or complete one or more Services as a result of:
  - (i) an act or omission of <Counterparty> that prevented <Service Provider> from providing, undertaking or completing the Service; or
  - (ii) that Service not being able to be provided or undertaken in respect of the relevant Delivery Point because:
    - A. the Delivery Point is not physically able to be used to provide, undertake or complete the Service; or

- B. of an event or circumstance outside **<Service Provider>**'s reasonable control, which **<Service Provider>** could not have prevented or overcome;
- (b) **<Counterparty>** uses a Service intermittently or irregularly;
  - (c) **<Service Provider>** refuses under clause 8.2 to accept Gas delivered at a Receipt Point by **<Counterparty>** or a Related Shipper of **<Counterparty>**;
  - (d) **<Service Provider>** Curtails, wholly or partially, the quantity or pressure of Gas deliveries to **<Counterparty>** at a Delivery Point under clause 8.2 or 8.4;
  - (e) **<Counterparty>**, for reasons that may be within or outside **<Counterparty>**'s control, is unable to use one or more Services; or
  - (f) an event of Force Majeure occurs.

#### 4.4 Avoidance of Doubt

For the avoidance of doubt, **<Counterparty>** is not required to pay any applicable Charges and other amounts payable under this Service Agreement in accordance with clause 4.1 if any event or circumstance within the control of **<Service Provider>** prevented **<Service Provider>** from providing, undertaking or completing the Service.

#### 4.5 Charges payable until Deregistration

For each Delivery Point:

- (a) **<Counterparty>** must pay all Charges and other amounts payable under this Service Agreement in respect of the Delivery Point, until such time as the Delivery Point is Deregistered, which time must not exceed the timeframe specified in clause 127 of the Retail Market Procedures; and
- (b) subject to clause 5.6, Charges and other amounts payable for the Delivery Point will be calculated as though the End Date for the Delivery Point under this Service Agreement is the date that the Delivery Point is Deregistered.

## 5. Receipt and Delivery of Gas, Delivery Points and the Delivery Point Register

### 5.1 Obligation to accept and deliver Gas

<Service Provider> must:

- (a) accept into the ATCO GDS all Gas delivered to a Receipt Point by any Related Shipper of <Counterparty> ; and
- (b) deliver Gas from the ATCO GDS to <Counterparty> at a Delivery Point,

in accordance with the terms and conditions of this Service Agreement.

### 5.2 Right to take delivery of Gas

For each Delivery Point, <Counterparty> 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 Service Agreement.

### 5.3 Pressure of Gas delivered

<Service Provider> must use reasonable endeavours to deliver Gas to <Counterparty> at a Delivery Point at the Nominal Delivery Pressure for the Delivery Point.

### 5.4 Delivery Point Register

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

- (a) each Delivery Point at which <Counterparty> may take delivery of Gas under this Service Agreement;
- (b) for each Delivery Point:
  - (i) the Service applicable to the Delivery Point;
  - (ii) the MIRN for the Delivery Point;
  - (iii) the Start Date for the Delivery Point;

- (iv) one or more Receipt Points at which a Related Shipper of **<Counterparty>** 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 for the Delivery Point; and
  - (vi) the Nominal Delivery Pressure for the Delivery Point;
- (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;
  - (ii) the Contracted Peak Rate;
  - (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 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;
  - (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), **<Counterparty>** may request **<Service Provider>** to:

- (i) add a new System 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) **<Counterparty>** being the Current User for the System Delivery Point at both:
    - A. the time **<Counterparty>** 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.
- (d) If **<Counterparty>** requests **<Service Provider>** to construct facilities to service a new Delivery Point, **<Service Provider>** will process that request in accordance with any applicable Laws. Depending on the nature and scale of facilities required, **<Service Provider>** may require entry into a specific agreement relating to the construction of those facilities (and that agreement may include reasonable conditions precedent, such as obtaining all relevant approvals). **<Service Provider>** will ensure its charges for constructing such facilities are reasonable or otherwise determined in accordance with the requirements of any applicable Laws.

## 5.6 Deregistration of Delivery Points

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 Procedures; or
- (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

- (a) For each Interconnected Pipeline for a Sub-network there is one Receipt Point, regardless of the number of Physical Gate Points between that Interconnected Pipeline and the Sub-network.
- (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) <Counterparty>'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.

## 5.8 Receipt Points for Other Gases

- (a) Where a Receipt Point is to be used by <Counterparty> for the delivery of an Other Gas or a Gas Blend into the ATCO GDS then <Counterparty> must comply with such requirements notified by <Service Provider> to <Counterparty> in writing prior to the commencement of supply of the Other Gas or Gas Blend to ensure that the supply of such Other Gas or Gas Blend does not adversely affect:
  - (i) the ability of <Service Provider> to deliver to the System Delivery Points on the ATCO GDS (whether or not used by <Counterparty>) Gas which complies with the Gas Quality Specifications;
  - (ii) the pressure of the ATCO GDS (whether at Receipt Points or System Delivery Points); or

- (iii) the safety or operational integrity of the ATCO GDS.
- (b) An Other Gas or Gas Blend may only be supplied to a Receipt Point if there is a legally enforceable Interconnection Arrangement in force between **<Service Provider>** and the party operating the facilities by which that Other Gas or Gas Blend is supplied and which regulates the terms of that supply.
- (c) The requirements notified by **<Service Provider>** under clause 5.8(a) must be (where relevant) consistent with the requirements of the Interconnection Arrangement referred to in clause 5.8(b).

## 5.9 Establishment of New Receipt Points

A new Receipt Point (or Physical Gate Point) may only be added to the ATCO GDS if there is:

- (a) a legally enforceable Interconnection Arrangement in force between **<Service Provider>** and the party operating the facilities immediately upstream of that Receipt Point or Physical Gate Point; and
- (b) an agreement in place between **<Service Provider>** and **<Counterparty>** (and/or the operator referred to in clause 5.9(a)) relating to the construction of those facilities and any modifications required to the ATCO GDS to connect the new Receipt Point or Physical Gate Point (including the amounts **<Service Provider>** will charge for making the required modifications to the ATCO GDS and supervising the design, construction and commissioning process). **<Service Provider>** will ensure its charges relating to establishment of the new Receipt Point or Physical Gate Point are reasonable or otherwise determined in accordance with the requirements of any applicable Laws.

## 6. Gas quality, balancing and pressure

### 6.1 Gas quality

- (a) **<Counterparty>** must ensure that the Gas that it delivers at a Receipt Point for transportation and delivery through the ATCO GDS complies with the Gas Quality Specifications at all times.
- (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, **<Counterparty>** agrees to be bound by those gas quality specifications.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>**:
  - (i) has no control over the quality of Gas in the ATCO GDS; and
  - (ii) makes no representation, warranty or guarantee in respect of the quality of Gas delivered to **<Counterparty>** under this Service Agreement.

### 6.2 Notification of Off-specification Gas

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

### 6.3 Delivery of Off-specification Gas into the ATCO GDS

- (a) If **<Service Provider>** becomes aware that Off-specification Gas has been, is being or may be delivered into the ATCO 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 ATCO GDS; and
  - (iii) take whatever other steps **<Service Provider>**, acting reasonably, considers necessary or desirable to ensure that Gas within the ATCO 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 **<Counterparty>** any Off-specification Gas delivered by **<Counterparty>** into the ATCO GDS.

## 6.4 Liability for Off-specification Gas

- (a) Subject to clauses 6.4(b), <Counterparty> hereby:
- (i) releases <Service Provider> from any claim <Counterparty> has or may have against <Service Provider> as a result of any gas delivered by any person into the ATCO GDS being Off-specification Gas;
  - (ii) indemnifies <Service Provider> against all loss, damage, cost or expense suffered or incurred by <Service Provider> as a result of any gas delivered, or attempted to be delivered, by <Counterparty> or a Related Shipper of <Counterparty> into the ATCO GDS being Off-Specification Gas ; 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> as a result of any gas delivered, or attempted to be delivered, by <Counterparty> or a Related Shipper of <Counterparty> into the ATCO GDS being Off-specification Gas.
- (b) Clause 6.4(a) does not apply to the extent that Off-specification Gas was delivered or sought to be delivered into the ATCO GDS as a result of <Service Provider>'s negligence or default.
- (c) Any amount <Counterparty> is obliged to indemnify <Service Provider> under clause 6.4(a)(ii) or 6.4(a)(iii) will be reduced in proportion to the extent that <Service Provider>'s negligence or default caused or contributed to the loss, damage, cost or expense to be indemnified by <Counterparty>.
- (d) The losses, damages, costs and expenses <Service Provider> may suffer or incur as a result of any Gas delivered, or attempted to be delivered, by <Counterparty> or a Related Shipper of <Counterparty> into the ATCO GDS being Off-Specification Gas include, without limitation, costs arising due to the need to flare or vent Gas including:
- (i) the costs of replacing any flared or vented Gas;
  - (ii) the costs of acquiring (or using up existing) carbon credits to offset emissions due to such flaring or venting;
  - (iii) any penalties or fines payable by <Service Provider> as a result of such venting or flaring.

## 6.5 Authorised conveyance

- (a) Nothing in this Service Agreement prohibits <Service Provider> from conveying Off-specification Gas through the ATCO 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 **<Counterparty>** for any loss, damage, cost or expense **<Counterparty>** suffers or incurs in relation to or connection with such conveyance, where the loss, damage, cost or expense is a result of the gas being Off-specification Gas.

## 6.6 Gas balancing

- (a) For each Gas Day, **<Counterparty>** must procure the delivery of an amount of Gas into each Sub-network that is equal to **<Counterparty>**'s good faith estimate, acting as a reasonable and prudent person, of the quantity of Gas likely to be delivered to **<Counterparty>** out of the Sub-network on that Gas Day.

- (b) **<Counterparty>** 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 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 **<Counterparty>** or a Related Shipper of **<Counterparty>**, except to the extent that such imbalance results from:

- (i) breach by **<Service Provider>** of this Service Agreement or any Law;
- (ii) the negligence of **<Service Provider>**; or
- (iii) 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 taken by Users at Delivery Points in the Sub-network with which that Receipt Point is associated.

- (d) **<Counterparty>** acknowledges and agrees that:

- (i) **<Service Provider>** does not control whether and how the operator of an Interconnected Pipeline delivers Gas into the ATCO GDS at a Receipt Point; and
- (ii) **<Service Provider>** will not be liable to **<Counterparty>**, under this Service Agreement or otherwise, in respect of any loss, damage, cost, expense or other consequence suffered by **<Counterparty>** in relation to or connection with:

- A. a failure by the operator of an Interconnected Pipeline or a Related Shipper of **<Counterparty>** to deliver Gas into the ATCO GDS at a Receipt Point; or

- B. any breach by **<Counterparty>** of this Service Agreement.

- (e) **<Counterparty>** 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;
  - (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, **<Counterparty>** 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 Procedures to keep the Sub-network pressurised to fall disproportionately on other Users; or
  - (iii) cause any User or other person to suffer loss or damage.
- (g) Nothing in this clause 6.6 limits clause 8.

## 6.7 Maximum pressure

**<Counterparty>**:

- (a) must use reasonable endeavours to ensure that the volume or pressure of Gas delivered by **<Counterparty>** or a Related Shipper of **<Counterparty>** at a Physical Gate Point does not exceed the physical design capabilities of the infrastructure which makes up that Physical Gate Point; and
- (b) hereby indemnifies **<Service Provider>** against any 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 **<Counterparty>** of its obligation under clause 6.7(a).

## 6.8 System Pressure Protection Plan

- (a) **<Counterparty>** must comply, and must ensure that its Related Shippers and Swing Service Providers comply, with **<Counterparty>**'s Approved System Pressure Protection Plan.
- (b) **<Counterparty>** 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 **<Counterparty>** relies to any extent on Option 3 (as defined in Annexure E System Pressure Protection Plan of the Access Arrangement) as a part of its Approved System Pressure Protection Plan, then **<Counterparty>** hereby:
- (i) releases **<Service Provider>** from all claims **<Counterparty>** has or may have against **<Service Provider>**; and
  - (ii) indemnifies **<Service Provider>** against all claims from:
    - A. any Downstream Person of **< Counterparty>**;
    - B. any other User; or
    - C. any Downstream Person of any other User,for any loss, damage, cost or expense arising out of or in connection with:
    - D. any Curtailment, restriction or cessation of Gas deliveries into the ATCO GDS by or on behalf of **<Counterparty>** 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) in respect of all legal costs incurred by **<Service Provider>** in connection with the release in clause 6.8(c)(i) and the indemnities in clauses 6.8(c)(ii) and 6.8(c)(iii).

## 6.9 Odourisation

**< Counterparty>** must ensure that all Gas it delivers to a Physical Gate Point is odourised in accordance with the Regulatory Instruments and any other applicable Laws.

## 6.10 Emergencies

- (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 ATCO GDS, venting, flaring or otherwise disposing of any Gas, and giving any reasonable instructions to **<Counterparty>**.

- (b) **<Service Provider>** must, as soon as practicable after determining that an Emergency exists, give written notice of the Emergency to **<Counterparty>**, if **<Counterparty>** 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 6.10(b) does not limit **<Service Provider>**'s powers under clause 6.10(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 6.10(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) **<Counterparty>**:
  - (i) must comply with any reasonable instruction (including any instruction concerning the management of **<Counterparty>**'s or its Gas customers' Gas demand and any instruction directed to preservation or restoration of Capacity of the ATCO GDS) given to it by **<Service Provider>** during, or related to, an Emergency; and
  - (ii) hereby indemnifies **<Service Provider>** against any 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 **<Counterparty>**'s failure to comply with such an instruction.
- (f) **<Service Provider>**'s rights under this clause 6.10 do not limit any other right or remedy of **<Service Provider>** under the Law or this Service Agreement.



## 7. Gas Operations

### 7.1 Title to Gas

- (a) At all times, **<Counterparty>** must ensure that it has good title to any Gas it causes to be injected into the ATCO GDS, free and clear of all liens, encumbrances and claims of a nature inconsistent with **<Service Provider>**'s operation of the ATCO GDS.
- (b) Title to Gas:
- (i) delivered into the ATCO GDS at a Receipt Point passes to **<Service Provider>** at the Receipt Point; and
  - (ii) delivered out of the ATCO GDS to **<Counterparty>** at a Delivery Point passes to **<Counterparty>** 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).
- (c) **<Counterparty>** 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 ATCO GDS under this Service Agreement:
- (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 **<Counterparty>** and a Related Shipper of **<Counterparty>**) before or arising out of the delivery of the Gas to **<Service Provider>**.

### 7.2 Control and possession of Gas

- (a) **<Counterparty>** will have control and possession of Gas:
- (i) prior to its delivery into the ATCO GDS at a Receipt Point; and
  - (ii) after its delivery out of the ATCO GDS at a Delivery Point.
- (b) **<Service Provider>** will have control and possession of Gas:
- (i) following its delivery into the ATCO GDS at a Receipt Point; and
  - (ii) prior to its delivery out of the ATCO 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 ATCO GDS; or
  - (ii) after it is delivered out of the ATCO GDS,
- and this clause 7.3(a) will survive any termination of this Service Agreement.
- (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 **<Counterparty>**.

### 7.4 Receipt of Gas

- (a) Only **<Counterparty>** may receive Gas delivered under this Service Agreement by **<Service Provider>** at a Delivery Point.
- (b) **<Counterparty>** has no proprietary interest in Gas after its delivery into the ATCO GDS at a Receipt Point and prior to its delivery at a Delivery Point. Its sole right is a contractual one to have Gas (including a commingled stream of Gas) delivered at a Delivery Point in accordance with this Agreement.

### 7.5 Commingling permitted

**<Service Provider>** may:

- (a) commingle any Gas delivered into the ATCO GDS by or for the account of **<Counterparty>** with other Gas in the ATCO GDS; and
- (b) deliver Gas out of the ATCO 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 **<Counterparty>** in writing of the Interconnection Event, whereupon:

- A. **<Counterparty>** must not deliver Gas into the ATCO 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. **<Counterparty>** 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 **<Counterparty>** 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:
- 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 **<Counterparty>** 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 Service Agreement, **<Service Provider>** is liable to **<Counterparty>** for any loss, damage, cost or expense suffered by **<Counterparty>** 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 **<Counterparty>** .
- (c) Subject to clause 7.6(d), if **<Counterparty>** considers that an event has occurred or is likely to occur that may constitute or cause an Interconnection Event, **<Counterparty>** 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 Service Agreement.
- (e) Subject to clauses 7.6(f) and 21.1, **<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 ATCO 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 **<Counterparty>**.

## 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 **<Counterparty>** or a 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, 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 **<Counterparty>** or a 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 ATCO GDS and prudent Pipeline practices generally accepted in the Gas haulage industry.

- (c) If **<Counterparty>** is required to compensate a 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 **<Counterparty>** to the extent of the lesser of:

- (i) the value of the compensation Gas Customer receives from **<Counterparty>** ; and
- (ii) the value of compensation which would be payable by **<Service Provider>** to **<Counterparty>** under clause 7.7(b)(ii) if the damage had been suffered wholly by **<Counterparty>** instead the Gas Customer.

- (d) Except to the extent that **<Service Provider>** is liable to **<Counterparty>** or a Gas Customer under clause 7.7(b)(ii), **<Counterparty>** hereby:

- (i) releases **<Service Provider>** from any claim **<Counterparty>** 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 a Gas Customer,

in respect of any damage done to the land or premises of **<Counterparty>** or a 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 ATCO GDS and prudent Pipeline practices generally accepted in the Gas haulage industry, whether that damage is of a temporary or permanent character.

## 7.8 Cyber Security

Each party must:

- (a) ensure its information technology systems and networks which hold any information relevant to this Service Agreement are maintained in a secure state consistent with good industry practice such that they will not be subject to unauthorised access;
- (b) keep up to date any software and firmware used by it in connection with this Services Agreement and ensure all security-related updates and patches are installed;
- (c) take all necessary steps, consistent with good industry practice, to ensure it does not introduce any virus, Trojan horse, worm, logic bomb or other malicious code into the other party's information technology systems and networks; and
- (d) take all necessary steps, consistent with good industry practice, to protect its infrastructure and equipment against cyber security attacks.

## 8. Curtailment

### 8.1 <Service Provider> to minimise Curtailment

<Service Provider> will, in its operation and maintenance of the ATCO GDS, use reasonable endeavours to minimise the magnitude and duration of any Curtailment of Gas deliveries to <Counterparty> subject to <Service Provider>'s rights under clauses 15.5(b), 16.1 and 16.2(j).

### 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 Service Agreement (including clauses 6.3(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 <Counterparty> or a Related Shipper of <Counterparty> 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 ATCO 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 ATCO GDS;
- (c) any arrangements or operations of <Counterparty> or a Related Shipper of <Counterparty> 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>, <Counterparty> or any other person;
- (e) either party experiences an event of Force Majeure;
- (f) acceptance of the Gas by <Service Provider> would cause the ATCO GDS to exceed its maximum allowable operating pressure; or
- (g) <Service Provider> is otherwise permitted or required to do so by this Service Agreement or any Law.

### 8.3 Curtailment Events

In addition to any other rights and remedies that may be available to it under any Law, this Service Agreement (including clauses 6.3(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 **<Counterparty>** at a Delivery Point if one or more of the following events occur:

- (a) **<Counterparty>** exceeds its Contracted Peak Rate at the Delivery Point;
- (b) **<Counterparty>** or a Related Shipper of **<Counterparty>** 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, **<Counterparty>** is in breach of a provision of the Approved System Pressure Protection Plan or a representation and warranty set out in clauses 18.1(g) or 18.1 (h), or may commit such a breach if no Curtailment is effected;
- (d) the operator of an Interconnected Pipeline, in respect of a particular day has:
  - (i) 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 **<Counterparty>**'s allocation instruction under the Retail Market Procedures for the day;

- (e) the level of Capacity of the ATCO 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 ATCO GDS or in respect of anything downstream of the Delivery Point) to deliver Gas to **<Counterparty>** 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>**, **<Counterparty>** or any other person; or
- (i) without limiting clauses 8.3(f) or 8.3(g), **<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 Service Agreement 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 Service Agreement or any Law, at any time:

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

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

#### **8.5 <<Counterparty> 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 **<Counterparty>** requiring **<Counterparty>** 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) **<Counterparty>** 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 <<Counterparty> to comply with notice of Curtailment**

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



- (i) Curtail receipt of Gas by **<Counterparty>** 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) **<Counterparty>** must comply with the terms of a notice given by **<Service Provider>** under clause 8.6(a).
- (d) Nothing in this clause 8.6 limits **<Service Provider>**'s rights to effect a Curtailment.

### **8.7 Service Provider entitled to recover reasonable costs**

**<Counterparty>** 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 Service Agreement by **<Counterparty>**; or
- (b) the negligence of **<Counterparty>** or a Related Shipper of **<Counterparty>**.

### **8.8 Method of Curtailment or refusal to accept**

- (a) When exercising its rights under clauses 8.2, 8.3 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 **<Counterparty>** 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 **<Counterparty>** 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 6.6, despite **<Service Provider>**'s rights under clauses 8.2, 8.3 and 8.4, **<Counterparty>** acknowledges that:
  - (i) **<Counterparty>** 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 **<Counterparty>** for the purpose of avoiding swing service on a Sub-network on a Gas Day.

## 9. Metering

### 9.1 Operating meters

<Service Provider> must ensure that User Specific Delivery Facilities and Standard Delivery Facilities for Reference 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 Service Agreement and the magnitude of <Counterparty>'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) <Counterparty> acknowledges that <Service Provider>'s ability to provide a Reference Service to <Counterparty> in respect of a Delivery Point is subject to <Counterparty> 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 Service Agreement; and
  - (ii) if applicable, until the Delivery Point is Deregistered.

- (b) **<Counterparty>** must use reasonable endeavours, including obtaining all leases, licences and easements materially necessary, 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);
  - (ii) considers, acting reasonably, that **<Counterparty>** has not used reasonable endeavours in accordance with clause 9.3(b); and
  - (iii) 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, acting reasonably, require **<Counterparty>** 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 Service Agreement 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 ATCO GDS or any Standard Delivery Facilities or User Specific Delivery Facilities are, or are to be, installed.

## 10. Invoicing and Payment

### 10.1 Invoicing

- (a) **<Service Provider>** may claim payment, twice a month in arrears, of Charges and other amounts payable by **<Counterparty>** under this Service Agreement, by issuing to **<Counterparty>** a written payment claim prepared in accordance with clause 10.1(d) (**Payment Claim**).
- (b) **<Service Provider>** will provide notice of 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.
- (c) The Payment Method or Methods shall be:
  - (i) as prescribed by a Regulatory Instrument; or
  - (ii) if not prescribed by a Regulatory Instrument, the Payment Method or Methods in place between **<Service Provider>** and other Users as at the date of this Service Agreement.
- (d) A Payment Claim comprises:
  - (i) a data file setting out the Meter data used to calculate or estimate the relevant Charges included in the Payment Claim, together with the details relevant to the composition of the Payment Claim;
  - (ii) a tax invoice in respect of:
    - A. all Charges and other amounts payable under this Service Agreement in respect of each Delivery Point, for the period covered by the Payment Claim;
    - B. any other amounts payable under this Service Agreement for the period covered by the Payment Claim;
    - C. any outstanding amounts previously invoiced that remain unpaid, and any interest payable on those amounts calculated under clause 10.5; and
    - D. any deduction from or addition to the tax invoice required under clause 10.4 to correct an error in a previous Payment Claim; and
  - (iii) such other information as the parties may agree in writing.

- (e) <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, <Counterparty> 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, <Counterparty> 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 <Counterparty> disputes any amount set out in a Payment Claim, <Counterparty> must:
  - (i) within 3 Business Days after receiving the Payment Claim, give <Service Provider> a written notice (**Payment Dispute Notice**) specifying:
    - A. the full details of the dispute; and
    - B. the amount <Counterparty> considers should be payable instead of the amount set out in the Payment Claim (**Alternative Payment Amount**); 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 <Counterparty> 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), then, clause 10.2 will apply and, if <Counterparty> wishes to dispute the Payment Claim, it must do so in accordance with clause 10.4.
- (c) Where <Counterparty> gives <Service Provider> a Payment Dispute Notice under clause 10.3(a)(i), <Service Provider> must, within 5 Business Days after receiving it, give <Counterparty> 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 <Counterparty> must pay the Alternative Payment Amount (to the extent it exceeds any amount required to be paid under clause 10.3(a)(ii) (as that amount must be paid within

the time determined by clause 10.3(a)(ii)) 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 **<Counterparty>** a Response Notice under clause 10.3(c)(ii) specifying that **<Service Provider>** does not agree to an Alternative Payment Amount, **<Counterparty>** must give **<Service Provider>** a written notice specifying either:
- (i) that the Payment Dispute Notice is withdrawn (**Dispute Withdrawal Notice**), in which case **<Counterparty>** must pay:
    - A. the relevant amount as set out in the original Payment Claim to the extent it exceeds any amount required to be paid under clause 10.3(a)(ii) (as that amount must be paid within the time determined by clause 10.3(a)(ii)); 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 **<Counterparty>** 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 a party (**Sender**) provides a Retrospective Error Notice under clause 10.4(a), the other party (**Recipient**) must, within 5 Business Days after receiving it, give Sender a written notice specifying either:
  - (i) that the Recipient agrees with the Retrospective Error Notice, in which case, subject to clause 10.4(c), the Recipient 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 the Recipient does not agree with the Retrospective Error Notice and the reasons for this, in which case clause 10.4(c) applies.
- (c) Where the Recipient gives the Sender notice under clause 10.4(b)(ii) that the Recipient does not agree with a Retrospective Error Notice, the Sender must, within 5 Business Days after receiving the notice, give the Recipient 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 the Sender does not withdraw the Retrospective Error Notice, in which case the dispute is to be resolved in accordance with clause 19.
- (d) If:
  - (i) the Recipient is required under clause 10.4(b)(i) 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 the Recipient under this Service Agreement,then:
  - (iii) where the error would require a deduction from the future Payment Claim, the party who would have been required to make that deduction must pay to the other party an amount equal to the amount to be deducted; and
  - (iv) where the error would require an addition to the future Payment Claim, the party who would have been required to pay that additional amount must pay to the other party 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 Service Agreement 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.



## 11. Duty and GST

### 11.1 Duty

- (a) Subject only to clause 11.2, all Duty arising in respect of:
- (i) the transfer of title to Gas by or on behalf of **<Counterparty>** 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 **<Counterparty>** at a Delivery Point in accordance with clause 7.1(b)(ii);
  - (iv) this Service Agreement;
  - (v) any statement of charges, invoice or notice issued pursuant to this Service Agreement; and
  - (vi) any easement, licence or other document required pursuant to this Service Agreement (other than any transfer or assignment executed pursuant to clause 14.8),

shall be paid by **<Counterparty>** .

- (b) All Duty arising in respect of any service (including a Reference 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

- (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.

- (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 Days 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

- (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 Service Agreement if it is prevented from doing so by Force Majeure.
- (b) The occurrence of Force Majeure (whether claimed by **<Service Provider>** or by **<Counterparty>**) does not relieve **<Counterparty>** of the obligation to pay any Charge or other amounts payable under this Service Agreement or any Law.
- (c) To the extent that **<Service Provider>** fails to provide Reference Services under this Service Agreement and claims the benefit of Force Majeure in respect of that failure, **<Counterparty>** is excused from the obligation to pay the Reference Tariff (including any standing charge or demand charge) for such Reference Services.
- (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 Service Agreement 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 Service Agreement 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 Service Agreement due to Force Majeure, then either party may in its absolute discretion by written notice to the other party terminate this Service Agreement, without further liability for either party.

## 13. Variation

### 13.1 Replacement of Reference Services

- (a) **<Service Provider>** may, at any time where permitted by clause 13.1(c), by written notice to **<Counterparty>**, vary this Service Agreement to replace the Reference Service provided under the Service Agreement in respect of a Delivery Point with a different Reference Service for that Delivery Point.
- (b) **<Service Provider>** must consult with **<Counterparty>** at least 20 Business Days prior to giving a notice under clause 13.1(a), and **<Counterparty>** 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 Reference Service with a different Reference 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 **<Counterparty>** under clause 13.1(b)) that the quantity of Gas to be delivered to **<Counterparty>** in the Year following the date of the notice would fall within the requirements of a Reference Service other than the Reference 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 Procedures and the Reference 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 Service Agreement is varied by updating the Delivery Point Register to replace the existing Reference Service in respect of the Delivery Point with the replacement Reference 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 Reference Service (including the Tariff) will apply.

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

- (a) If the Access Arrangement terminates or expires or is revised under the Access Laws, **<Counterparty>** may terminate this Service Agreement by giving 20 Business Days' written notice to **<Service Provider>**, without further liability for either party (except as regards to rights and obligations (if any) that have already accrued prior to termination and are (expressly or by implication) to survive termination).
- (b) If the Access Arrangement terminates or expires without making provision for how this Service Agreement will terminate, **<Service Provider>** may at any time terminate this Service Agreement by giving 20 Business Days' written notice to **<Counterparty>**, without further liability for either party.

### 13.3 Laws to take precedence

- (a) In the event of any inconsistency between:
  - (i) a party's obligations or rights under a Law; and
  - (ii) its obligations or rights under this Service agreement;its obligations and rights under the Law shall take precedence to the extent of the inconsistency.
- (b) Where this Service Agreement contains provisions which regulate a matter in greater detail than the provisions of a Law then the provisions of this Service Agreement will not be taken to be inconsistent merely by reason of the inclusion of that additional detail and the provisions of this Service Agreement will continue to apply to that matter to the extent permitted by the terms of the Law.

## 14. Assignment, Transfer, Novation and Capacity Trading

### 14.1 No assignment except as expressly provided for

<Counterparty> 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

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

- (a) <Counterparty>'s rights against, and obligations to, <Service Provider> under this Service Agreement are unaffected by the transfer; and
- (b) <Counterparty> 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.

### 14.3 Other transfers

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



#### 14.5 <Counterparty> remains liable to <Service Provider>

- (a) <Counterparty>'s obligations under this Service Agreement remain in full force and effect and binding upon <Counterparty> 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, such consent not to be unreasonably withheld; and
  - (ii) <Counterparty> 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), <Counterparty> 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 Service Agreement before the transfer or novation takes effect.

#### 14.6 Costs

- (a) <Counterparty> 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

- (a) <Counterparty> 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:
  - (i) give its consent to **<Counterparty>**'s request subject to conditions; or
  - (ii) without limiting clause 14.7(b)(i), require **<Counterparty>** 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 **<Counterparty>**'s request.
- (c) **<Service Provider>** must give **<Counterparty>** 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, transfers and novations by <Service Provider>**

- (a) **<Service Provider>** may assign its rights and/or novate its obligations under this Service Agreement:
  - (i) to any person to whom **<Service Provider>** transfers ownership of the ATCO GDS; or
  - (ii) otherwise with **<Counterparty>**'s prior written consent, and such consent must not be unreasonably withheld.
- (b) **<Counterparty>** must execute such documentation reasonably required by **<Service Provider>** to give effect to an assignment or novation under clause 14.8(a), provided **<Service Provider>** must pay any Duty on such documentation and must reimburse **<Counterparty>** its reasonable legal costs of reviewing that documentation.

## 15. Default and Termination

### 15.1 Default by a party

A party is in default under this Service Agreement in any one or more of the following circumstances:

- (a) if the party fails to make a payment when due under this Service Agreement;
- (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 Service Agreement, including any obligation implied by the operation of Law, where such failure causes material detriment to the other party;
- (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 Service Agreement, the Application which gave rise to this Service Agreement, 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;
- (g) if a party is in default (“defaulting party”) under any other agreement with the other party under which the **<Service Provider>** provides Reference Services to **<Counterparty>**, and the non-defaulting party reasonably considers that the default under the other agreement will materially impact the non-defaulting party’s ability to comply with its obligations under this Service Agreement; or
- (h) in any other circumstance specified in this Service Agreement.

### 15.2 Default by **<Counterparty>**

In addition to the circumstances specified in clause 15.1, **<Counterparty>** is in default under this Service Agreement, if there is any adverse change in the business or financial condition of **<Counterparty>** or an event occurs which could, in **<Service Provider>**’s reasonable opinion , materially affect **<Counterparty>**'s ability to meet its obligations to **<Service Provider>** under this Service Agreement.

### 15.3 Notice of default

If a party is in default under this Service Agreement, 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 Service Agreement, then the other party may, in its absolute discretion, terminate this Service Agreement by written notice to the defaulting party.
- (b) A party may only terminate this Service Agreement 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 Service Agreement by written agreement.
- (d) Despite the preceding provisions of this clause 15.4, a party's right to terminate this Services Agreement due to the defaults referred to in clause 15.1(d) and clause 15.2 is subject to the operation of the Ipso Facto Regime.

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

If <Counterparty> is in default under this Service Agreement, then <Service Provider> may, in its absolute discretion:

- (a) refuse to accept delivery of Gas from a Related Shipper of <Counterparty> at a Receipt Point until such time as all defaults have been remedied;
- (b) wholly or partly Curtail Gas deliveries to <Counterparty> at a Delivery Point until such time as all defaults have been remedied;

- (c) reduce or suspend any service under this Service Agreement to **<Counterparty>** until such time as all defaults have been remedied; or
- (d) exercise its rights under clause 16.2(e).

### **15.6 Saving of other remedies**

A party's rights under clauses 15.4 and 15.5 are in addition to any other rights and remedies available to the party, whether under any Law, this Service Agreement or otherwise and without prejudice to any rights of the party under any statutory enforcement regime.

### **15.7 Effect of termination**

- (a) Termination of this Service Agreement:
  - (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 Service Agreement on and from the date of termination.
- (b) Termination of this Service Agreement 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 Service Agreement but for its termination.

### **15.8 Novation of contracts does not trigger default provisions**

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

### **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 **<Counterparty>** of its intent to effect a restructure as contemplated by this clause 15.9, then **<Counterparty>** 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 Service Agreement to one or more Third Parties, then **<Counterparty>** 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 Approved Security with an equivalent face value to the amount replaced, provided that where **<Service Provider>** is to continue to provide part of the Reference Services following the restructure, **<Counterparty>** will procure the substitution of the Approved Security held by **<Service Provider>** with Approved Security for an amount determined by **<Service Provider>** in order to secure the resulting reduced amount.

## 16. Security and Insurance

### 16.1 Compliance with obligations

<Service Provider>, acting as a reasonable and prudent network operator, may by written notice, from time to time under this clause 16.1 require <Counterparty> to:

- (a) pay all amounts owing under this Service Agreement to continue to receive Reference Services under this Service Agreement;
- (b) provide written evidence that <Counterparty> 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 <Counterparty> is complying with Gas Quality Specifications and Gas Standards Regulations in relation to Gas it injects into the ATCO 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 <Counterparty> at a Delivery Point or reduce or suspend any service to <Counterparty> under this Service Agreement 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 Service Agreement and the date of commencement of Reference Services, <Service Provider> may request <Counterparty> to provide Approved Security in the amount set out in clause 16.2(b), as security for the performance of <Counterparty>'s obligations under this Service Agreement. Approved Security shall only be provided if at the time of the request:
  - (i) <Counterparty> cannot demonstrate:
    - A. that it has an unqualified:
      - i. Standard & Poor's credit rating of at least BBB-; or
      - ii. Moody's credit rating of at least Baa3; or
      - iii. Fitch credit rating of at least BBB-,  
(an acceptable credit rating); or

- B. that the performance of **<Counterparty>**'s payment obligations under clause 10 of this Service agreement are guaranteed (on terms acceptable to **<Service Provider>**) by another entity who has an Acceptable Credit Rating (**guarantor**); or
  - (ii) within the previous 12 months, (or where the commencement of this Service Agreement occurs within the previous 12 months, since the commencement of this Service Agreement) **<Counterparty>** has failed to pay in full:
    - A. 5 invoices within the required time limit for payment; or
    - B. 3 consecutive invoices within the required time limit for payment; or
    - C. 1 invoice within 25 days of the due date; or
  - (iii) any undisputed amounts owing by **<Counterparty>** to **<Service Provider>** in respect of the provision of Reference Services in the period prior to the commencement of this Service Agreement, are not paid in full within 30 days of the commencement of this Service Agreement; or
  - (iv) **<Counterparty>** ceases to hold a Gas Trading Licence under the *Energy Coordination Act 1994* (WA); or
  - (v) **<Counterparty>** ceases to be a member of or "User" (as that term is defined in the Retail Market Procedures) for the purposes of the Retail Market Scheme, provided that nothing in clause 16.2(a)(ii) or 16.2(a)(iii) shall permit **<Service Provider>** to require Approved Security under clause 16.2(c) where **<Counterparty>** has failed to pay the invoice or invoices or a relevant part of the invoices due to a bona fide dispute under clause 10.3.
- (b) Subject to clause 16.2(a)(i) to 16.2(a)(v) above and 16.2(c), the Approved Security shall:
- (i) be for the amount in dollars, notified by **<Service Provider>** to **<Counterparty>** in writing, which is the greater of:
    - A. **<Service Provider>**'s reasonable estimate of all Charges and other amounts payable that will be incurred by **<Counterparty>** under this Service Agreement 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 Service Agreement; and
  - B. the time required for **<Counterparty>** to satisfy its obligations under this Service Agreement as determined by **<Service Provider>**, acting reasonably.
- (c) The parties acknowledge that any amount determined under clause 16.2(b) is based on a forward estimate of the Reference Services to be provided under this Service Agreement. If, in **<Service Provider>**'s reasonable opinion, the amount of the Approved Security required under clause 16.2(b) has increased since the date of **<Service Provider>**'s most recent notice under that clause 16.2(b), **<Service Provider>** may, not more frequently than monthly, give **<Counterparty>** a further notice under clause 16.2(b) specifying a revised amount required to be the subject of Approved Security under this Service Agreement, and **<Counterparty>** must provide an additional or replacement Approved Security such that this revised amount is secured by Approved Security.
- (d) The parties:
  - (i) acknowledge that the Tariffs applicable to Reference Services will change from time to time (including due to CPI escalation) ; and
  - (ii) agree that as those Tariffs change:
    - A. the total amount required to be secured under this clause 16.2 will be adjusted to reflect the change in those tariffs; and
    - B. accordingly, **<Counterparty>** must provide, in addition to the existing secured amount or amounts, an additional or replacement Approved Security such that the amount of this adjustment is secured, within 5 Business Days of being notified by **<Service Provider>** of the revised amount of Approved Security required.
- (e) If, in the opinion of **<Service Provider>**, **<Counterparty>** has defaulted under this Service Agreement, **<Service Provider>** may call on or apply any Approved Security without notice to **<Counterparty>** and, in **<Service Provider>**'s sole discretion, apply the Approved Security or the proceeds of it towards remedying the default and/or compensating **<Service Provider>** for any loss or damage caused by the default.
- (f) If **<Service Provider>** calls on or applies all or part of any Approved Security, **<Counterparty>** must give **<Service Provider>** an additional or a replacement Approved Security 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(b) (as adjusted in accordance with clause 16.2(d)) is secured.

- (g) If **<Service Provider>** has called on or applied the Approved Security and, after **<Counterparty>**'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 **<Counterparty>**'s obligations under this Service Agreement until **<Counterparty>** replaces the Approved Security. Upon receipt of a replacement Approved Security which complies with the requirements of this clause 16.2, **<Service Provider>** will, within 5 Business Days, return those surplus funds to **<Counterparty>** or (at **<Service Provider>**'s option), apply those funds in or towards any payment due from **<Counterparty>** to **<Service Provider>** which has not been paid when due.
- (h) Subject to clause 15.9(d), **<Service Provider>** will return the Approved Security to **<Counterparty>** on the later of:
  - (i) the expiration or termination of this Service Agreement; and
  - (ii) completion of all of **<Counterparty>**'s duties and obligations under this Service Agreement (including payment to **<Service Provider>** of any damages arising from any breach of this Service Agreement by **<Counterparty>**) to the satisfaction of **<Service Provider>**.
- (i) Any failure by **<Counterparty>** 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 **<Counterparty>** to provide Approved Security or increase the amount which may be claimed under any Approved Security treated as a failure by **<Counterparty>** to pay **<Service Provider>** an amount equivalent to the required amount of that Approved Security or the increased amount required (whichever is applicable).
- (j) 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 **<Counterparty>** at a Delivery Point or reduce or suspend any service to **<Counterparty>** under this Service Agreement unless and until **<Counterparty>** has provided each Approved Security in the form and for the amount determined under this clause 16.2.
- (k) If the Approved Security is to be provided by way of bank guarantee, the bank guarantee must be in the form set out in Annexure B (or such other form as is acceptable to **<Service Provider>**).

### **16.3 Security Bond – Specific Provisions**

- (a) **<Service Provider>** is only required to accept a Security Bond as Approved Security if **<Service Provider>** is able to register its interest in that Security Bond on the Personal

Property Securities Register and if that interest will have priority over any other registered or unregistered interest in that Security Bond.

- (b) Where **<Service Provider>** accepts a Security Bond then it will hold the funds constituted by the Security Bond in such Australian bank account as determined by **<Service Provider>** in its absolute discretion. **<Service Provider>** has no obligation to ensure that account pays interest or any given level of interest.
- (c) Any interest which does accrue on a Security Bond will be treated as income of **<Counterparty>**. When paid by the relevant bank such interest will be added to the amount of the Security Bond.
- (d) Any bank fees or other third party costs of maintaining the bank account may be met from the amount of the Security Bond (including interest added to that Security Bond). If as a result the amount of the Security Bond is reduced below the then current amount of Approved Security then **<Counterparty>** must, within 5 Business Days of request, provide to **<Service Provider>** such additional funds as required to ensure that the amount of the Security Bond is equal to the amount of Approved Security required to be provided under this Service Agreement.
- (e) At the end of each quarter of a calendar year **<Service Provider>** will determine if the amount of the Security Bond (including interest added to that Security Bond) exceeds the current amount of Approved Security **<Counterparty>** is required to provide to **<Service Provider>**. If so, **<Service Provider>** will, within 45 days of the end of the quarter, return to **<Counterparty>** an amount of cash equal to the amount by which the Security Bond exceeds the required amount of Approved Security.
- (f) Where **<Service Provider>** is entitled to call on an Approved Security which is a Security Bond pursuant to clause 16.2(e) this means that **<Service Provider>** may withdraw funds from the relevant bank account and apply them in accordance with clause 16.2(e).

#### **16.4 PPSA**

- (a) **<Security Provider>** may register a financing statement or financing change statement in relation to any Security Interest created by this Service Agreement under the PPSA.
- (b) **<Counterparty>** acknowledges and agrees that it is liable for all costs, charges and expenses incurred by **<Service Provider>**:
  - (i) in preparing and registering a financing statement or a financing change statement in relation to any Security Interest created by this Service Agreement, under the PPSA; and
  - (ii) in responding to requests for information about any Security Interest created by this Service Agreement, under Part 8.4 of the PPSA.

- (c) If Chapter 4 of the PPSA would otherwise apply to the enforcement of a Security Interest arising out of this Service Agreement, to the extent the law permits, **<Counterparty>** and **<Service Provider>** agree that:
- (i) for the purposes of sections 115(1) and 115(7) of the PPSA;
    - A. **<Service Provider>** need not comply with sections 95, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA; and
    - B. sections 142 and 143 of the PPSA are excluded; and
  - (ii) for the purposes of section 115(7) of the PPSA, **<Service Provider>** need not comply with sections 132 and 137(3) of the PPSA
- (d) **<Counterparty>** waives the right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.
- (e) If **<Service Provider>** exercises a right, power or remedy in connection with this Service Agreement, that exercise is taken not to be an exercise of a right, power or remedy under the PPSA unless **<Service Provider>** states otherwise at the time of exercise. However, this clause 16.3(e) does not apply to a right, power or remedy which can only be exercised under the PPSA.

## 16.5 Insurances

- (a) Each party must obtain adequate insurance to meet its obligations in relation to insurance under this Service Agreement.
- (b) **<Counterparty>** must meet **<Service Provider>**'s minimum insurance and prudential requirements, including requirements as to its ability to meet all financial obligations under this Service Agreement. Unless otherwise agreed in writing, the minimum insurance requirements are:
- (i) a third party liability insurance including product liability policy that includes cover for **<Counterparty>**'s and a Related Shipper's liability in the event that Gas that enters the ATCO GDS causes loss of, or damage to, the ATCO 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 **<Counterparty>** would obtain having regard to the nature of **<Counterparty>**'s business.
- (c) **<Service Provider>** may require **<Counterparty>** to provide evidence of the matters in clause 16.5(a) and **<Counterparty>** will provide that evidence within 15 Business Days of receipt of a written notice from **<Service Provider>** directing the evidence be provided.
- (d) **<Counterparty>** will inform **<Service Provider>** in writing within 10 Business Days of:
- (i) receipt of notification from an insurer of the insurer's intention to cancel the insurances referred to in this clause 16.5; or
  - (ii) **<Counterparty>** determining that it intends to change its insurer.
- (e) **<Service Provider>** must:
- (i) obtain and maintain insurance throughout the term against whatever risks a person carrying on a business of managing and operating a gas delivery network, substantially similar to the ATCO GDS, would prudently insure, with reputable insurers;

- (ii) give **<Counterparty>** a certificate of currency for the insurance, whenever reasonably requested;
- (iii) promptly notify **<Counterparty>** if **<Service Provider>** fails to obtain any insurance required under this Service Agreement.

## 17. Liability of Parties

### 17.1 Liability for negligence and default limited to direct damage

- (a) Subject to clauses 17.1(c) and 17.3, if a party:
- (i) is negligent in any matter relating to or arising out of this Service Agreement;  
or
  - (ii) defaults in respect of any obligation to the other party under this Service Agreement,

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 loss, damage, cost or expense to the other party caused by or arising out of the negligence or default.

- (b) Each party holds the benefit of the indemnity on its own behalf and also holds it on trust for their respective directors, servants, consultants, independent contractors and agents (each an “**Indemnified Person**”) with respect to each of them to the extent the Indemnified Person cannot directly enforce that indemnity for its own benefit. Despite this trust, the parties may agree to amend this Service Agreement without requiring the consent of each Indemnified Person.

- (c) **<Service Provider>** is not liable to **<Counterparty>** for loss, damage, cost or expense caused by or arising out of:
- (i) any refusal to accept Gas at a Receipt Point or Curtailment undertaken in accordance with this Service Agreement or any Law;
  - (ii) any non-delivery of Gas into the ATCO 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 Service Agreement 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 Service Agreement or any Law.

### 17.2 Liability for fraud

- (a) A party who is fraudulent in relation to this Service Agreement is liable to the other party for, and indemnifies the other party against, any 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 Service Agreement 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 Service Agreement or any Law, in relation to a matter related to, or arising out of, this Service Agreement.

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

To the extent that **<Service Provider>** is not liable to **<Counterparty>** as a result of clause 17.3, then if a Downstream Person 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 **<Counterparty>** must indemnify and keep indemnified **<Service Provider>** against any liability to a Downstream Person which would exceed **<Service Provider>**'s liability to **<Counterparty>** if the claim were brought by **<Counterparty>** 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 **<Counterparty>** 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 ATCO 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 Service Agreement.

### **17.7 Each limitation separate**

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



### 17.8 Mitigation of loss

Each party must comply with its duty to mitigate any loss, damage, cost or expense suffered by it as a result of any breach or negligence of the other party in connection with this Service Agreement.

### 17.9 Exercise and survival of indemnities

- (a) An obligation to indemnify under this Service Agreement 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 Service Agreement.
- (c) The right of a party indemnified under this Service Agreement to receive payment under the indemnity survives any termination of this Service Agreement.

### 17.10 Australian Consumer Law liability as between <Counterparty> and <Service Provider>

- (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 Service Agreement 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 Service Agreement 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 Service Agreement with which it is inconsistent.

## 18. Representations and Warranties

### 18.1 <Counterparty> representation and warranties

<Counterparty>, by entering into this Service Agreement, represents and warrants to <Service Provider> that:

- (a) it has in full force and effect all material authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Laws to enter into this Service Agreement, to observe its obligations under this Service Agreement, and to allow those obligations to be enforced;
- (b) this Service Agreement and any transaction under it do not contravene <Counterparty>'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) its obligations to make payments under this Service Agreement rank at least equally with all unsecured and unsubordinated indebtedness of <Counterparty>, except debts mandatorily preferred by Law. The parties acknowledge and agree that, without limiting this clause in any way, except for debts mandatorily preferred by Law, no debt owed by <Counterparty> to <Service Provider> at any time under this Service Agreement, is, or is to be taken to be, subordinated in any way to any other debt owed by <Counterparty> at any time to any person, unless <Service Provider> otherwise expressly agrees or declares that it be so subordinated. Nothing in this Service Agreement is, or is to be taken to be, such an agreement or declaration by <Service Provider> to subordinate a debt owed by <Counterparty> to <Service Provider>;
- (d) neither <Counterparty> 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 <Counterparty>'s ability to perform its obligations under this Service Agreement;
- (e) there is no undisclosed action or proceeding, either pending or threatened, affecting <Counterparty> 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 <Counterparty>'s ability to perform its obligations under this Service Agreement;
- (f) 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 Service Agreement) in relation to this Service Agreement or the Gas to be delivered or received under this Service Agreement;

- (g) **<Counterparty>** has good legal and beneficial title to all Gas delivered into the ATCO GDS at a Receipt Point by, for or on account of **<Counterparty>** or a Related Shipper of **<Counterparty>**, free and clear of mortgages, charges and other encumbrances;
- (h) it is and will at all times be registered as a “User” (as that term is defined in the Retail Market Procedures) for the purposes of the Retail Market Scheme and will at all times comply with the Retail Market Scheme; and
- (i) it shall use reasonable endeavours to ensure the compliance of any pipeline operator and any Shipper or Swing Service Provider who delivers Gas to the GDS on **<Counterparty>**'s 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 Service Agreement.

## 18.2 **<Service Provider> representations and warranties**

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

- (a) it has in full force and effect all material authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all Laws to enter into this Service Agreement, to observe its obligations under this Service Agreement, and to allow those obligations to be enforced;
- (b) this Service Agreement 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 might reasonably be expected to, materially affect its ability to perform its obligations under this Service Agreement; and
- (d) there is no undisclosed action or proceeding, either pending or threatened, 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 Service Agreement.

## 18.3 **Representations and warranties generally**

The representations and warranties in clauses 18.1 and 18.2 are made on and from the commencement of this Service Agreement under clause 2 and are made anew each day for the duration of this Service Agreement.

**18.4 Disclosure and notification**

- (a) Each party shall disclose in writing to the other party any matters that would render a representation or warranty untrue or incorrect in any respect as soon as reasonably practicable.
- (b) The parties acknowledge that except as disclosed under clause 18.4(a) all representations and warranties are true and correct in all respects.
- (c) Except as specifically set out in this Service Agreement, each party acknowledges that in entering into this Service Agreement it has not relied on any representations or warranties about its subject matter.

## 19. Dispute Resolution

### 19.1 Interaction between the dispute resolution process under this Service Agreement and other dispute resolution processes

- (a) Subject to clauses 10.3, 10.4, 19.1(b) and 19.1(c), any dispute arising between the parties out of or in connection with this Service Agreement 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 Procedures apply to a dispute under this Service Agreement, the parties agree to apply the dispute resolution process provided for under the applicable instrument to that dispute.
- (c) Where a party seeks the correction of a payment error after payment, pursuant to clause 10.4, the party may only give a notice under clause 19.2(a) to initiate dispute resolution processes under this Service Agreement where:
  - (i) there is any single line item or multiple line items and the single line item or multiple line items total more than \$5,000 in any rolling 3 month period; or
  - (ii) if a single line item or multiple line items total equal to or greater than \$5,000 at any time.

### 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 15 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 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 be 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 Service Agreement;
  - (ii) a party to the arbitration proceedings 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 Service Agreement so as to conform to the true intention of the parties, provided that any rectification must comply with the Law 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 to the arbitration proceedings 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

- (a) Notices and other communications under this Service Agreement must be provided in accordance with the format and procedure specified in the Retail Market Procedures for the provision of notices under the Retail Market Scheme.
- (b) If the Retail Market Procedures do not specify a format and procedure for providing a particular notice, consent or other communication, then the following provisions apply:
- (i) a notice, consent or other communication under this Service Agreement is only effective if it is in writing and transmitted by the sender to the recipient by electronic mail; and
  - (ii) the notice, consent or other communication is regarded as given and received when the recipient'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 the sender are not provided in accordance with clause 20(a) or 20(b) (as applicable), the recipient may recover from the sender 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
- (e) The address for notices served on **<Counterparty>** is:
- [insert address]  
Email: [insert email address]

- (f) A party may change its postal and electronic mail addresses for notices under this Service Agreement at any time, by giving the other party a written notice of the change specifying the new address information to be used.

## 21. Confidentiality and Information Exchange

### 21.1 When disclosure of Confidential Information is permitted

- (a) Except as otherwise permitted under this Service Agreement:
- (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 Service Agreement;
    - 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 21.1; and
    - D. ensure that its employees maintain the confidentiality of Confidential Information on the terms required by this Service Agreement.
- (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 21.1;
  - (iii) at the request of the party to whom the information relates, where the information is about the use of Reference 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 21.1;
- (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 Third Party has first agreed in writing to be bound by obligations of confidentiality no less strict than those imposed under this clause 21.1;
- (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.

## 21.2 Other provisions concerning disclosure

- (a) In the case of a disclosure permitted under clause 21.1 or any other provision of this Service Agreement, 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 21.1(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.

## 21.3 Compliance with privacy laws

The parties agree that:

- (a) any obligation under this Service Agreement 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 Service Agreement in accordance with any requirements of this Service Agreement and any applicable Laws relating to privacy, disclosure, use or confidentiality of information.

#### **21.4 Format for information exchange**

- (a) Unless otherwise agreed or provided for in this Service Agreement, any information provided by one party to the other under this Service Agreement must be provided in accordance with the format and procedure specified in the Retail Market Procedures (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 21.4(a), the other party may recover from the first party the reasonable additional costs involved in dealing with the information.

## 22. Miscellaneous

### 22.1 Applicable Law and jurisdiction

- (a) This Service Agreement 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 Service Agreement 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 Service Agreement) 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 Service Agreement 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 Service Agreement does not prevent a further exercise of that right or of any other right under this Service Agreement.

### 22.3 Amendment

- (a) Subject to the remainder of this clause 22.3, this Service Agreement may only be amended or supplemented in writing, executed by the parties in the same manner as the parties executed this Agreement.
- (b) It is the intention of **<Service Provider>** and **<Counterparty>** that the terms and conditions of this Service Agreement reflect so far as possible the Reference Service Terms and Conditions.
- (c) It is therefore agreed that if there is any change to the Reference Service Terms and Conditions then the terms and conditions of this Service Agreement will, subject to any agreement in writing between the parties, and excluding clauses that state that they are not subject to this clause 22.3, be automatically amended (without the requirement for the parties to execute any form of documentation) such that they are the same as the Reference Service Terms and Conditions.
- (d) In this clause 22.3, the Reference Service Terms and Conditions means the terms and conditions upon which **<Service Provider>** will provide Reference Services as set out in the Access Arrangement (including the Template Service Agreement).

## **22.4 Entire agreement**

This Service Agreement 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 Costs of Service Agreement**

Each party must bear its own legal and other costs in relation to the preparation of this Service Agreement.

## **22.6 Severance**

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

## **22.7 Further Assurance**

Each party must execute any document and perform any action necessary to give full effect to this Service Agreement, whether prior or subsequent to performance of this Service Agreement.

## **22.8 Counterparts**

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



## 23. Interpretation

### 23.1 Dictionary

The Dictionary sets out the terms and their definitions that apply in this document, including the schedules and annexures to this document.

Dictionary	
Term	Definition
<b>Above 10 TJ Determination</b>	has the meaning given to that term in rule 139(3)(b) of the Retail Market Procedures.
<b>Access Arrangement</b>	has the meaning given to that term in the National Gas Access Law and in particular, and as the context requires, means the access arrangement for the ATCO GDS approved under the Code on 18 July 2000 and subsequently revised under the Code and the Access Laws.
<b>Alternative Payment Amount</b>	has the same meaning as given in clause 10.3(a)(i)B of this Service Agreement.
<b>Ancillary Services</b>	means any one of Special Meter Reading, Deregistering a Delivery Point, Applying a Meter Lock, Removing a Meter Lock, Disconnecting a Delivery Point and Reconnecting a Delivery Point and Ancillary Services means all of them.
<b>Applicable Tax</b>	has the meaning given to that term in the definition of “Tax” specified in this Dictionary.
<b>Application</b>	means an application to obtain access to a Pipeline Service in accordance with Part 5 of the Access Arrangement.
<b>Application Procedure</b>	means the application procedure specified in Part 5 of the Access Arrangement under which a Prospective User wishing to obtain access to a Pipeline Service must submit an Application.
<b>Applying a Meter Lock</b>	means the Reference Service described in paragraph 4.8 of the Access Arrangement.
<b>Approved Security</b>	means at User’s election: <ul style="list-style-type: none"> <li>(a) a bank guarantee in the form set out in Annexure B (or such other form as is acceptable to &lt;Service Provider&gt;);</li> <li>(b) a Security Bond;</li> <li>(c) an insurance bond which is unconditional and payable on demand without reference to &lt;Counterparty&gt; and notwithstanding any notice given by &lt;Counterparty&gt; not to pay same, being otherwise in a form acceptable to &lt;Service Provider&gt;; or</li> <li>(d) such other form of security as may be agreed between the parties from time to time.</li> </ul>

<b>Approved System Pressure Protection Plan</b>	means the System Pressure Protection Plan approved by <Service Provider> under the Access Arrangement.
<b>Arbitrator</b>	means the person appointed to hear a dispute between the parties in accordance with clause 19.3 of this Service Agreement.
<b>ATCO Gas Australia</b>	means ATCO Gas Australia Pty Ltd (ABN 90 089 531 975) (formerly WA Gas Networks and formerly Alinta Gas Networks).
<b>ATCO GDS</b>	means the Mid-West and South-West Gas Distribution Systems (formerly known as the WAGN GDS) owned by ATCO Gas Australia.
<b>Australian Consumer Law</b>	means the Australian Consumer Law as set out in Schedule 2 to the <i>Competition and Consumer Act 2010</i> (Cth).
<b>Business Day</b>	means a day that is not: (a) a Saturday or Sunday; or (b) observed as a public holiday, a special holiday or bank holiday under the <i>Public and Bank Holidays Act 1972</i> (WA).
<b>Capacity</b>	means the measure of the potential of a Covered Pipeline as currently configured to deliver a particular Pipeline Service between a Receipt Point and a Delivery Point at a point in time.
<b>Charge</b>	has the meaning given to it in section 2 of the National Gas Access Law.
<b>Charge for a Reference Service</b>	means the amount payable by <Counterparty> to <Service Provider> under this Service Agreement for that Reference Service, being: (a) for Service A1, the amount determined under clause 6 of Schedule 1 of this Service Agreement; (b) for Service A2, the amount determined under clause 6 of Schedule 2 of this Service Agreement; (c) for Service B1, the amount determined under clause 6 of Schedule 3 of this Service Agreement; (d) for Service B2, the amount determined under clause 5 of Schedule 4 of this Service Agreement; and (e) for Service B3, the amount determined under clause 5 of Schedule 5 of this Service Agreement.
<b>Code</b>	means the <i>National Third Party Access Code for Natural Gas Pipeline Systems</i> , previously in force in Western Australia under the <i>Gas Pipelines Access (Western Australia) Act 1998</i> (WA).
<b>Conditions Precedent</b>	means the conditions precedent listed in clause 1 of this Service Agreement.
<b>Confidential Information</b>	means all information in any form which is communicated to, or obtained by, a party and that is (a) provided in confidence and that the disclosing party has asked to be kept confidential;

	<ul style="list-style-type: none"><li>(b) non-public information about the use of Reference Services (including, without limitation, the terms of this Service Agreement) or the acquisition or consumption of Gas; or</li><li>(c) information that a reasonable person would regard as actually or potentially confidential.</li></ul>
<b>Contracted Peak Rate</b>	in respect of a Delivery Point, means the highest Instantaneous Flow Rate through the Delivery Point at which <b>&lt;Service Provider&gt;</b> can be required to deliver Gas, which: <ul style="list-style-type: none"><li>(a) for a Delivery Point to which Service A1 applies, is determined under clause 7 of Schedule 1 of this Service Agreement;</li><li>(b) for a Delivery Point to which Service A2 applies, is determined under clause 7 of Schedule 2 of this Service Agreement;</li><li>(c) for a Delivery Point to which Service B1 applies, is determined under clause 7 of Schedule 3 of this Service Agreement;</li><li>(d) for a Delivery Point to which Service B2 applies, is determined under clause 6 of Schedule 4 of this Service Agreement; and</li><li>(e) for a Delivery Point to which Service B3 applies, is determined under clause 6 of Schedule 5 of this Service Agreement.</li></ul>
<b>Covered Pipeline</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Covered Pipeline Service Provider</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Current User</b>	has the meaning given to that term in the Retail Market Procedures.
<b>Curtail</b>	means to reduce, interrupt or stop, or any combination of them.
<b>Delivery Facilities</b>	means, as applicable, Standard Delivery Facilities or User Specific Delivery Facilities.
<b>Delivery Point</b>	means a point, including a flange or joint, specified in this Service Agreement (or any other agreement between <b>&lt;Counterparty&gt;</b> and <b>&lt;Service Provider&gt;</b> for the provision of Reference Services) and in the Delivery Point Register, as a point at which <b>&lt;Counterparty&gt;</b> is entitled to take delivery of Gas from <b>&lt;Service Provider&gt;</b> out of the ATCO GDS.
<b>Delivery Point Register</b>	means a database or collection of databases established and maintained in accordance with clause 5.4 of this Service Agreement and containing the details of Delivery Points and other information described in that clause 5.4, and which may contain other information, including information about other Users.
<b>Demand Charge for Tariff A1</b>	means the charge described in clause 1.1(a)(ii) of Annexure A of the Access Arrangement.
<b>Demand Charge Rate for Tariff A1</b>	means the rate specified in clause 1.1(b)(ii) of Annexure A of the Access Arrangement.

<b>Deregistered</b>	means, in relation to a Delivery Point, that Gas is permanently precluded from being supplied at the Delivery Point because the Delivery Point is permanently deregistered in accordance with Part 3.6 of the Retail Market Procedures and: <ul style="list-style-type: none"><li>(a) for a Delivery Point to which Service A1 applies, the procedure specified in clause 9 of Schedule 1 of this Service Agreement;</li><li>(b) for a Delivery Point to which Service A2 applies, the procedure specified in clause 9 of Schedule 2 of this Service Agreement;</li><li>(c) for a Delivery Point to which Service B1 applies, the procedure specified in clause 8 of Schedule 3 of this Service Agreement;</li><li>(d) for a Delivery Point to which Service B2 applies, the procedure specified in clause 7 of Schedule 4 of this Service Agreement; and</li><li>(e) for a Delivery Point to which Service B3 applies, the procedure specified clause 7 of Schedule 5 of this Service Agreement.</li></ul>
<b>Deregistering a Delivery Point</b>	means the Reference Service described in paragraph 4.7 of the Access Arrangement.
<b>Dictionary</b>	means this dictionary setting out the definitions of terms used in this document.
<b>Disconnecting a Delivery Point</b>	means the Reference Service described in paragraph 4.10 of the Access Arrangement.
<b>Dispute Withdrawal Notice</b>	has the same meaning as given in clause 10.3(d)(i) of this Service Agreement.
<b>Distribution Licence</b>	means the licence (GLD8) granted to <b>&lt;Service Provider&gt;</b> by the Economic Regulatory Authority, which was renewed in June 2021 for a 21 year period, that authorises <b>&lt;Service Provider&gt;</b> to transport Gas through the ATCO GDS and, if required for that purpose, to make alterations to the ATCO GDS, and to operate and maintain the ATCO GDS.
<b>Downstream Person</b>	means, in relation to a User (including <b>&lt;Counterparty&gt;</b> ): <ul style="list-style-type: none"><li>(a) any person:<ul style="list-style-type: none"><li>(i) supplied; or</li><li>(ii) having or claiming an entitlement to be supplied, directly or indirectly with Gas which is, or is to be, or should have been, transported by or on behalf of that User through the ATCO GDS (whether or not it was also to be transported through any other Pipeline by or on behalf of that User or any other person); and</li></ul></li><li>(b) any other person claiming directly or indirectly on behalf of or through such a person.</li></ul>
<b>Duty</b>	means any duty payable under applicable state or federal government legislation and includes duty payable under the <i>Duties Act 2008</i> (WA).
<b>Emergency</b>	means:

- (a) in **<Service Provider>**'s opinion, any extreme operating situation;  
or
- (b) any other situation (however caused) which, in **<Service Provider>**'s opinion, poses an immediate or imminent danger to persons or property or otherwise constitutes an emergency or justifies or requires urgent or unilateral action.

**End Date** means the End Date as calculated in accordance with clause 5 of this Service Agreement.

**Extension or Expansion** means any extension to, or expansion of, the Capacity of the ATCO GDS and includes a new Pipeline.

**Force Majeure** means any occurrence or circumstance which is not within a party's control and which the party, by applying the standard of a reasonable and prudent person, is not able to prevent or overcome and includes (provided the forgoing tests are satisfied):

- (a) acts of God, including epidemics, slides, lightning, earthquakes, fires, storms, floods, wash outs and cyclones;
- (b) strikes, lock outs, stoppages, restraints of labour and other industrial disturbances;
- (c) acts of the enemy including wars, blockades and insurrection;
- (d) acts of terror, terrorism or terrorists;
- (e) riots and civil disturbances;
- (f) valid Laws;
- (g) shortage of necessary equipment, materials or labour;
- (h) refusal or delay in obtaining any necessary consent or approval from any Commonwealth, State or local government or Commonwealth or State statutory authority;
- (i) unavoidable accidents involving, or break down of or loss or damage to, any plant, equipment, materials or facilities necessary for the party's operations;
- (j) any ATCO GDS shutdown or interruption which is validly required or directed by any Commonwealth, State or local government agency or any Commonwealth or State statutory authority having authority to so require or direct;
- (k) any ATCO GDS shutdown or interruption required to conform with design or regulatory limits on ATCO GDS facilities, whether arising due to environmental conditions or circumstances or otherwise;
- (l) ATCO GDS ruptures; and
- (m) collisions or accidents.

**Gas** means Natural Gas, Other Gas or a Gas Blend

**Gas Blend** means a blend of Natural Gas and an Other Gas.

**Gas Customer** means any person who is party to a contract with **<Counterparty>** for the purchase of Gas from **<Counterparty>** or any person who controls, occupies

or operates facilities on the land or premises at which is used Gas sold or supplied by **<Counterparty>**.

**Gas Day**

means a 24 hour period starting at 08:00 hours (Western Standard Time or, if applicable, Western Standard Daylight Savings Time) on a day and ending at 08:00 hours on the following day, so that:

- (a) a reference to a Gas Day is a reference to the Gas Day commencing at 08:00 hours on the day or date referred to, and ending at 08:00 hours on the following day; and
- (b) references to months, quarters and years are to be given corresponding meanings; and
- (c) in reckoning of months, quarters and Years, the 8 hour offset between months, quarters and Years reckoned under (b) above and calendar months, quarters and Years, is to be disregarded.

**Gas Hour**

means a period of sixty minutes commencing and ending on the hour.

**Gas Quality Data**

means the following data in relation to Gas or such other types of data as **<Service Provider>** (acting reasonably) considers appropriate given the nature of the Gas entering the ATCO GDS):

- (a) maximum carbon dioxide;
- (b) maximum inert gases;
- (c) minimum and maximum higher heating value;
- (d) minimum and maximum Wobbe Index;
- (e) maximum total sulphur (including odorant);
- (f) maximum Hydrogen Sulphide;
- (g) maximum Oxygen;
- (h) maximum water;
- (i) Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute; and
- (j) maximum radioactive components.

**Gas Quality Specification**

has the meaning given to that term in Annexure A.

**Gas Standards Regulations**

means the *Gas Standards (Gas Supply and System Safety) Regulations 2000* (WA) and any other regulations under the *Gas Standards Act 1972* (WA) which relate to Gas safety, system safety and Gas quality, including heating value.

**GDS**

means gas distribution system.

**GST**

means:

- (a) the same as in the GST Law;
- (b) any other goods and services tax, or any tax applying to a transaction under or in connection with the Access Arrangement or a Service Agreement in a similar way; and

- (c) any additional tax, penalty tax, fine, interest or other charge under a law for such a tax.
- GST Law** has the meaning given to the term "GST law" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- Indemnified Person** has the meaning set out in clause 17.1(b) of this Service Agreement
- Indirect Damage** means:
- (a) in relation to a person – any consequential loss or damage however caused whether or not the consequential loss or damage was foreseeable or contemplated by the parties.
  - (b) including without limitation any:
    - (i) loss of (or loss of anticipated) use, production, revenue, income, profits, business, goodwill, reputation, opportunity or savings; or
    - (ii) business interruption,whether or not the consequential loss or damage was foreseeable or contemplated by the parties; and
  - (c) any liability of the person to any other person, or any claim against the person by any other person, and
  - (d) any costs or expenses in connection with the claim.
- Injection Facility** means a facility at which a form of Gas is produced or processed for purposes which include injecting a quantity of that Gas into the ATCO GDS (for example a hydrogen production facility).
- Insolvency Event** means, in relation to a person or entity (**Relevant Party**), any of the following occurring:
- (a) a receiver, receiver and manager, mortgagee in possession, administrator, bankruptcy trustee, liquidator, provisional liquidator, or similar officer is appointed to the Relevant Party or any of its assets, or an application is made to a court for an order to appoint such a person described in this paragraph and that application is not permanently stayed, withdrawn or dismissed within 30 days;
  - (b) a resolution is passed or an application to a court is taken or an order is made for the winding up, dissolution, official management or external administration of the Relevant Party;
  - (c) the Relevant Party ceases to (or is unable to) pay its creditors (or any class of them) in the ordinary course of business, or announces its intention not to pay its creditors;
  - (d) the Relevant Party is (or states that it is) insolvent or is deemed to be insolvent under applicable insolvency or bankruptcy Law;
  - (e) the Relevant Party commits an act of bankruptcy or is declared bankrupt under insolvency or bankruptcy Law; or
  - (f) any process to enforce a security interest is taken against or in relation to a substantial portion of the assets of the Relevant Party and is not satisfied or withdrawn within 30 days.

<b>Instantaneous Flow Rate</b>	in respect of a Delivery Point, means a flow rate measured over the shortest period of time over which the Meter at the Delivery Point is capable of measuring a flow rate.
<b>Interconnected Pipeline</b>	means a transmission Pipeline, distribution Pipeline, Injection Facility or Gas storage system from which Gas is supplied into the ATCO GDS.
<b>Interconnection Arrangement</b>	means a written or unwritten contract, arrangement or understanding in respect of an interconnection at a Physical Gate Point between the ATCO GDS and an Interconnected Pipeline (and includes a written or unwritten contract, arrangement or understanding for the provision of an Interconnection Service).
<b>Interconnection Distance</b>	in respect of a Delivery Point, means the distance measured along the straight line which represents the shortest distance between the Delivery Point and the nearest Pipeline, Injection Facility 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 ATCO GDS.
<b>Interconnection Event</b>	means an event as a result of which: <ul style="list-style-type: none"><li>(a) a Physical Gate Point associated with a Receipt Point is not, or ceases to be, the subject of a current Interconnection Arrangement; or</li><li>(b) a party to a current Interconnection Arrangement has a right under that Interconnection Arrangement to:<ul style="list-style-type: none"><li>(i) wholly or partly Curtail or refuse to accept Gas or otherwise reduce or limit the flow of Gas; or</li><li>(ii) terminate the Interconnection Arrangement.</li></ul></li></ul>
<b>Interconnection Service</b>	means a Reference Service under which <Service Provider> provides for, or facilitates, the interconnection of a Pipeline to the ATCO GDS.
<b>Ipsa Facto Regime</b>	means the amendments made to the <i>Corporations Act 2001 (Cth)</i> by Part 2 of the <i>Treasury Laws Amendment (2017 Enterprise Incentives No. 2) Act 2017 (Cth)</i> .
<b>Law or Laws</b>	means all: <ul style="list-style-type: none"><li>(a) written and unwritten laws (including, without limitation, laws set out in statutes and subordinate legislation, the common law and equity) of the Commonwealth, of Western Australia, of local government authorities, and of any other State, Territory or foreign country having jurisdiction over the subject matter of this Service Agreement, the ATCO GDS or the Access Arrangement; and</li><li>(b) judgments, determinations, decisions, rulings, directions, notices, regulations, by-laws, statutory instruments, Codes of Practice, Australian Standards or orders given or made under any of those laws or by any government agency or authority.</li></ul>
<b>Medium Pressure/Low Pressure System</b>	means those parts of the ATCO GDS operating at a nominal pressure of less than 300kPa and includes all high pressure regulators that are part of the ATCO GDS which reduce the pressure from those parts of the ATCO GDS



which operate at a nominal pressure of 300kPa or more to those parts of the ATCO GDS which operate at a nominal pressure of less than 300kPa.

<b>Meter</b>	means the equipment used to measure the flow of Gas into or out of the ATCO GDS at a Physical Gate Point or a Delivery Point, including any ancillary equipment.
<b>National Gas Access Law</b>	means the <i>National Gas Access (Western Australia) Law</i> as that term is defined in section 7 of the <i>National Gas Access (WA) Act 2009</i> (WA).
<b>National Gas Access (Western Australia) Legislation</b>	means: <ul style="list-style-type: none"><li>(a) the <i>National Gas Access (Western Australia) Act 2009</i> (WA);</li><li>(b) the <i>National Gas Access Law</i>;</li><li>(c) the <i>National Gas Rules</i>; and</li><li>(d) the <i>National Gas Regulations</i>.</li></ul>
<b>National Gas Objective</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>National Gas Regulations</b>	has the meaning given to that term in the <i>National Gas Access (Western Australia) Act 2009</i> .
<b>National Gas Rules</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Natural Gas</b>	means the form of gas generally known as “natural gas” being a substance that: <ul style="list-style-type: none"><li>(a) is in a gaseous state at standard temperature and pressure;</li><li>(b) consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane; and</li><li>(c) is suitable for consumption.</li></ul>
<b>Nominal Delivery Pressure</b>	means, in respect of a Delivery Point: <ul style="list-style-type: none"><li>(a) to which Service A1 applies, the pressure determined as the nominal pressure for the Delivery Point under clause 4 of Schedule 1 this Service Agreement;</li><li>(b) to which Service A2 applies, the pressure determined as the nominal pressure for the Delivery Point under clause 4 of Schedule 2 of this Service Agreement;</li><li>(c) to which Service B1 applies, the pressure determined as the nominal pressure for the Delivery Point under clause 4 of Schedule 3 of this Service Agreement;</li><li>(d) to which Service B2 applies, the pressure determined as the nominal pressure for the Delivery Point under clause 3 of Schedule 4 of this Service Agreement; and</li><li>(e) to which Service B3 applies, the pressure determined as the nominal pressure for the Delivery Point under clause 3 of Schedule 5 of this Service Agreement.</li></ul>

<b>Off-specification Gas</b>	means any Gas which does not comply fully with the Gas Quality Specifications.
<b>Other Gas</b>	means a substance that may be received into the ATCO GDS for transportation without breaching any Law, which substances may (without limitation) include (provided their receipt into the ATCO GDS is not prohibited by Law) hydrogen, biomethane, synthetic methane or any blend of these substances.
<b>Overrun Charge</b>	means a charge for an Overrun Service provided as part of Service A1 and calculated in accordance with clause 8 of Schedule 1 of this Service Agreement.
<b>Overrun Service</b>	has the meaning given to that term in clause 8 of Schedule 1 of this Service Agreement.
<b>Overrun Service Rate</b>	has the meaning given to that term in clause 8 of Schedule 1 of this Service Agreement.
<b>Payment Claim</b>	has the meaning given in clause 10.1(a) of this Service Agreement.
<b>Payment Dispute Notice</b>	has the meaning given in clause 10.3(a) of this Service Agreement.
<b>Payment Method</b>	means a method of payment of invoices notified by <b>&lt;Service Provider&gt;</b> under clause 10.1 of this Service Agreement.
<b>Personal Properties Securities Register</b>	means the register established under section 147 of the PPSA.
<b>Physical Gate Point</b>	means a flange, joint or other point which marks a physical boundary between the ATCO GDS and an Interconnected Pipeline.
<b>Pipeline</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Pipeline Service</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>PPSA</b>	means the <i>Personal Property Securities Act 2009 (Cth.)</i>
<b>Prescribed Interest Rate</b>	<p>in respect of a day on which interest is to be payable, means an annual interest rate which is three percentage points higher than the bank bill rate, where the bank bill rate:</p> <p>(a) means the average bid rate (rounded up to four decimal places) for bank accepted bills having a tenor of one month as displayed on the 'BBSW' page of the Reuters monitor system at or about 10:30am (Eastern Standard Time or, if applicable, Eastern Standard Daylight Savings Time) on that day; or</p> <p>(b) if the bank bill rate cannot be determined by the procedure in paragraph (a) of this definition, a reasonable rate determined by <b>&lt;Service Provider&gt;</b> having regard to comparable indices then available.</p>

<b>President</b>	means the President for the time being of the Law Society of Western Australia.
<b>Prospective &lt;User&gt;</b>	has the meaning given to that term in the National Gas Access Law.
<b>Receipt Point for a Sub-network</b>	means a point (which may be in the same physical location as a Physical Gate Point) which <Service Provider> has designated as a Receipt Point for that Sub-network.
<b>Recipient</b>	has the meaning set out in clause 10.4(b) of this Service Agreement.
<b>Reference Service Terms and Conditions</b>	has the meaning set out in clause 22.3(d) of this Service Agreement
<b>Reconnecting a Delivery Point</b>	means the Reference Service described in paragraph 4.11 of the Access Arrangement.
<b>Reference Services</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Reference Tariff</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Reference Tariff A1</b>	means the Tariff specified in Annexure A clause 1.1 of the Access Arrangement as the Reference Tariff for the Reference Service that is called "Service A1" in the Access Arrangement.
<b>Reference Tariff A2</b>	means the Tariff specified in Annexure A clause 1.2 of the Access Arrangement as the Reference Tariff for the Reference Service that is called "Service A2" in the Access Arrangement.
<b>Reference Tariff B1</b>	means the Tariff specified in Annexure A clause 1.3 of the Access Arrangement as the Reference Tariff for the Reference Service that is called "Service B1" in the Access Arrangement.
<b>Reference Tariff B2</b>	means the Tariff specified in Annexure A clause 1.4 of the Access Arrangement as the Reference Tariff for the Reference Service that is called "Service B2" in the Access Arrangement.
<b>Reference Tariff B3</b>	means the Tariff specified in Annexure A clause 1.5 of the Access Arrangement as the Reference Tariff for the Reference Service that is called "Service B3" in the Access Arrangement.
<b>Reference Tariff Variation Mechanism</b>	has the meaning given to that term in the <i>National Gas Rules</i> and for the purposes of the Access Arrangement means the mechanism for varying a Tariff set out in Annexure B of the Access Arrangement and the mechanism for varying the Reference Tariffs relating to the Ancillary Services set out in Annexure C of the Access Arrangement.
<b>Regulator</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Regulatory Instruments</b>	means: <ul style="list-style-type: none"><li>(a) the Access Laws;</li><li>(b) the Distribution Licence;</li><li>(c) the Access Arrangement;</li></ul>

- (d) the Retail Market Procedures;
- (e) the *Energy Coordination Act 1994* (WA);
- (f) the *Energy Coordination (Customer Contracts) Regulations 2004* (WA);
- (g) the *Energy Coordination (Gas Tariffs) Regulations 2000* (WA);
- (h) the *Energy Coordination (General) Regulations 1995* (WA);
- (i) the *Energy Coordination (Higher Heating Value) Regulations 2008* (WA);
- (j) the *Energy Coordination (Last Resort Supply) Regulations 2005* (WA);
- (k) the *Energy Coordination (Ombudsman Scheme) Regulations 2004* (WA);
- (l) the *Energy Coordination (Retail Market Schemes) Regulations 2004* (WA);
- (m) the *Energy Coordination Regulations 2004* (WA);
- (n) the *Energy Operators (Powers) Act 1979* (WA);
- (o) the *Environmental Protection Act 1986* (WA);
- (p) the *Gas Marketing Code of Conduct 2022* (WA);
- (q) the *Gas Standards Act 1972* (WA);
- (r) the *Gas Standards (Gas Supply and System Safety) Regulations 2000* (WA);
- (s) the *Gas Standards (Gasfitting and Consumer Gas Installations) Regulations 1999* (WA);
- (t) the *Gas Standards (Infringement Notices) Regulations 2007* (WA);  
and
- (u) any other Laws applicable to **ATCO Gas Australia** in its ownership and operation of the ATCO GDS under the Distribution Licence and provision of Reference Services by means of the ATCO GDS,  
and Regulatory Instrument means any one of them.

**Related Body Corporate** has the meaning given to that term in section 9 of the *Corporations Act 2001* (Cth).

**Related Shipper** means a person who, from time to time, is named in **<Counterparty>**'s allocation instruction for a Sub-network under the Retail Market Procedures, and to avoid doubt, **<Counterparty>** may be its own Related Shipper.

**Removing a Meter Lock** means the Reference Service described in paragraph 4.9 of the Access Arrangement.

**Response Notice** has the meaning given to that term in clause 10.3(c) of this Service Agreement.

<b>Retail Market Procedures</b>	means the Retail Market Procedures (WA) applying under the Retail Market Scheme, as amended from time to time, or any other scheme applying to the gas retail market.
<b>Retail Market Scheme</b>	means the retail market scheme, including the Retail Market Procedures, approved under section 11Z0J of the <i>Energy Coordination Act 1994</i> (WA) as applying in respect of the ATCO GDS, as amended from time to time, or any other scheme applying to the retail energy market.
<b>Retrospective Error Notice</b>	has the same meaning as given in clause 10.4(a) of this Service Agreement.
<b>Revenue and Pricing Principles</b>	has the meaning given to that term in section 2 of the <i>National Gas Access Law</i> .
<b>Rule</b>	means a reference to the <i>National Gas Rules (NGR)</i> .
<b>Security Bond</b>	means a cash deposit of funds with <b>&lt;Service Provider&gt;</b> by way of cash collateral.
<b>Security Interest</b>	has the same meaning as in the PPSA.
<b>Sender</b>	has the meaning set out in clause 10.4(b) of this Service Agreement.
<b>Service</b>	means each service provided by <b>&lt;Service Provider&gt;</b> under this Service Agreement.
<b>Service A1</b>	is the Reference Service described in Part 4 of the Access Arrangement and clause 1 of Schedule 1 of this Service Agreement.
<b>Service A2</b>	is the Reference Service described in Part 4 of the Access Arrangement and clause 1 of Schedule 2 of this Service Agreement.
<b>Service B1</b>	is the Reference Service described in Part 4 of the Access Arrangement and clause 1 of Schedule 3 of this Service Agreement.
<b>Service B2</b>	is the Reference Service described in Part 4 of the Access Arrangement and clause 1 of Schedule 4 of this Service Agreement.
<b>Service B3</b>	is the Reference Service described in Part 4 of the Access Arrangement and clause 1 of Schedule 5 of this Service Agreement.
<b>Service Agreement</b>	means this agreement between <b>&lt;Service Provider&gt;</b> and <b>&lt;Counterparty&gt;</b> .
<b>Service Pipe</b>	means the pipe and associated fittings which connect a Delivery Point to the main.
<b>Shipper</b>	has the meaning given to that term in the Retail Market Procedures.
<b>Spare Capacity</b>	has the meaning given to that term in the National Gas Access Law.
<b>Special Meter Reading</b>	means the Reference Service described in paragraph 4.12 of the Access Arrangement.
<b>Standard 8m<sup>3</sup>/h Meter</b>	means a standard Meter with a badged capacity of not more than 8 cubic metres of Gas per hour, being the standard facility or facilities adopted for

the purpose of this definition as specified from time to time by **<Service Provider>**.

**Standard 10m<sup>3</sup>/h Meter**

means a standard Meter with a badged capacity of not more than 10 cubic metres of Gas per hour, being the standard facility or facilities adopted for the purpose of this definition as specified from time to time by **<Service Provider>**.

**Standard 12m<sup>3</sup>/h Meter**

means a standard Meter with a badged capacity of not more than 12 cubic metres of Gas per hour, being the standard facility or facilities adopted for the purpose of this definition as specified from time to time by **<Service Provider>**.

**Standard 18m<sup>3</sup>/h Meter**

means a standard Meter with a badged capacity of not more than 18 cubic metres of Gas per hour, being the standard facility or facilities adopted for the purpose of this definition as specified from time to time by **<Service Provider>**.

**Standard Delivery Facilities**

means:

- (a) In the case of Service B1:
  - (i) facilities which may take delivery of Gas at a Delivery Point on the Medium Pressure/Low Pressure System using a standard Meter with a badged capacity of 18m<sup>3</sup>/h or greater including a Standard 18m<sup>3</sup>/h Meter;
  - (ii) Service Pipe from the main to the Delivery Point;
  - (iii) a Standard Pressure Regulator, sized to suit the applicable Meter; and
  - (iv) any ancillary pipes and equipment (including a valve or valves), being the standard facility or facilities adopted for the purposes of this definition and specified from time to time by **<Service Provider>**;
- (b) In the case of Service B2 and Service B3:
  - (i) in the case of Service B2, a standard Meter with a badged capacity of 12m<sup>3</sup>/h or greater and less than 18 m<sup>3</sup>/h including a Standard 12m<sup>3</sup>/h Meter; or
  - (ii) in the case of Service B3, a standard Meter with a badged capacity of less than 12m<sup>3</sup>/h including a Standard 8m<sup>3</sup>/h Meter and a Standard 10m<sup>3</sup>/h Meter;and in the case of each of Service B2 and Service B3:
  - (iii) up to 20 metres of Service Pipe;
  - (iv) a Standard Pressure Regulator, sized to suit the applicable Meter; and
  - (v) any ancillary pipes and equipment (including a valve or valves), being the standard facility or facilities adopted for the purposes of this definition and specified from time to time by **<Service Provider>**.

**Standard Pressure Regulator**

means a pressure regulator or regulators provided by **<Service Provider>** as part of Service B2 and Service B3 which is or are the standard facilities

adopted for the purposes of this definition as specified from time to time by **<Service Provider>**.

**Standard Site Conditions**

means, in the reasonable opinion of **<Service Provider>**, that the land or premises at or through which the Standard Delivery Facilities are being installed:

- (a) does not have rock or any other hard formation present;
- (b) does not have tiered or terraced gardens or retaining walls present;
- (c) does not require traffic management (including traffic management to allow safe access or working on or in the land or premises adjacent to the land or premises at or through which the Standard Delivery Facilities are being installed);
- (d) does not require horizontal directional drilling or boring; and
- (e) is not densely vegetated,

and only where the gas main is so located that, in the reasonable opinion of **<Service Provider>**, it is practicable in accordance with good industry practice to connect the Standard Delivery Facilities to the main.

**Standing Charge**

means:

- (a) for Tariff A1, the amount specified in clause 1.1(b)(i) of Annexure A of the Access Arrangement;
- (b) for Tariff A2, the amount specified in clause 1.2(b)(i) of Annexure A of the Access Arrangement;
- (c) for Tariff B1, the amount specified in clause 1.3(b)(i) of Annexure A of the Access Arrangement;
- (d) for Tariff B2, the amount specified in clause 1.4(b)(i) of Annexure A of the Access Arrangement;
- (e) for Tariff B3, the amount specified in clause 1.5(b)(i) of Annexure A of the Access Arrangement.

**Start Date**

means, in respect of each Delivery Point described in the column headed "Delivery Point" below, the date set against it in the column headed "Start Date" below or such other date recorded for a Delivery Point in the Delivery Point Register under clause 5.4(b)(iii):

<b>Delivery Point</b>	<b>Start Date</b>
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]
[                    ]	[                    ]

[ ] [ ]  
 [ ] [ ]

<b>Sub-network</b>	means a part of the ATCO GDS identified under the Retail Market Procedures as a sub-network of the ATCO GDS.
<b>Swing Service Provider</b>	has the meaning given to that term in rule 2 of the Retail Market Procedures.
<b>System Delivery Point</b>	means a point, including a flange or joint, at which Gas is capable of being delivered out of the ATCO GDS and includes each Delivery Point.
<b>System Pressure Protection Plan</b>	means a plan prepared by a Prospective User that complies with the requirements set out in Annexure E of the Access Arrangement to ensure that Prospective User does not jeopardise system pressure by being in a position where it is unable to supply sufficient Gas at Receipt Points on a Sub-network and is simultaneously unable to sufficiently reduce the delivery of Gas it takes at its Delivery Points on the Sub-network and, where referring to <Counterparty>, means the plan prepared by <Counterparty>.
<b>Tariff</b>	has the meaning given to it in section 2 of the National Gas Access Law.
<b>Tariff A1</b>	means the Tariff or Charge specified in, or determined by applying the formula or methodology contained in, the Access Arrangement, Annexure A clause 1.1, as varied under the Reference Tariff Variation Mechanism.
<b>Tariff A2</b>	means the Tariff or Charge specified in, or determined by applying the formula or methodology contained in, the Access Arrangement, Annexure A clause 1.2, as varied under the Reference Tariff Variation Mechanism.
<b>Tariff B1</b>	means the Tariff or Charge specified in, or determined by applying the formula or methodology contained in, the Access Arrangement, Annexure A clause 1.3 , as varied under the Reference Tariff Variation Mechanism.
<b>Tariff B2</b>	means the Tariff or Charge specified in, or determined by applying the formula or methodology contained in, the Access Arrangement, Annexure A clause 1.4 , as varied under the Reference Tariff Variation Mechanism.
<b>Tariff B3</b>	means the Tariff or Charge specified in, or determined by applying the formula or methodology contained in, the Access Arrangement, Annexure A clause 1.5, as varied under the Reference Tariff Variation Mechanism.
<b>Tax</b>	includes any tax, rate, impost, levy, fee, compulsory loan, tax-equivalent payment or surcharge withheld, deducted, charged, levied or imposed under any Law (Applicable Tax) other than any: <ul style="list-style-type: none"> <li>(a) Applicable Tax imposed under the GST Law; or</li> <li>(b) Applicable Tax imposed on any income or capital amounts that may be derived by a party.</li> </ul>
<b>Telemetry</b>	means the communication equipment used for transmission of data collected from a Meter to <Service Provider>'s central data management system and typically encompasses modems, telecom landline (which may



	be dedicated or part of the PSTN network) or radio transceivers (which may be in the form of a dedicated radio network, GSM, GPRS or satellite telephony).
<b>Template Service Agreement</b>	refers to the document attached at Annexure F of the Access Arrangement.
<b>Third Party</b>	means a person who is not a party to this Service Agreement.
<b>Usage Charge</b>	means: <ul style="list-style-type: none"><li>(a) for Tariff A1, the charge described in clause 1.1(a)(iii) of Annexure A of the Access Arrangement;</li><li>(b) for Tariff A2, the charge described in clause 1.2(a)(ii) of Annexure A of the Access Arrangement;</li><li>(c) for Tariff B1, the charge described in clause 1.3(a)(ii) of Annexure A of the Access Arrangement;</li><li>(d) for Tariff B2, the charge described in clause 1.4(a)(ii) of Annexure A of the Access Arrangement; and</li><li>(e) for Tariff B3, the charge described in clause 1.5(a)(ii) of Annexure A of the Access Arrangement.</li></ul>
<b>Usage Charge Rate</b>	means: <ul style="list-style-type: none"><li>(a) for Tariff A1, the rate specified in clause 1.1(b)(iii) of Annexure A of the Access Arrangement;</li><li>(b) for Tariff A2, the rate specified in clause 1.2(b)(ii) of Annexure A of the Access Arrangement;</li><li>(c) for Tariff B1, the rate specified in clause 1.3(b)(ii) of Annexure A of the Access Arrangement;</li><li>(d) for Tariff B2, the rate specified in clause 1.4(b)(ii) of Annexure A of the Access Arrangement; and</li><li>(e) for Tariff B3, the rate specified in clause 1.5(b)(ii) of Annexure A of the Access Arrangement.</li></ul>
<b>User</b>	has the meaning given to it in the National Gas Access Law (and, to avoid doubt, <Counterparty> is a User).
<b>User Specific Charge</b>	means: <ul style="list-style-type: none"><li>(a) for Tariff A1, the charge described in clause 1.1 (b)(iv) of Annexure A of the Access Arrangement;</li><li>(b) for Tariff A2, the charge described in clause 1.2 (b)(iii) of Annexure A of the Access Arrangement; and</li><li>(c) for Tariff B1, the charge described in clause 1.3 (b)(iii) of Annexure A of the Access Arrangement.</li></ul>
<b>User Specific Delivery Facilities</b>	means for Service A1, Service A2 or Service B1: <ul style="list-style-type: none"><li>(a) a Meter which is not a Standard 8m<sup>3</sup>/h Meter, a Standard 10m<sup>3</sup>/h Meter, a Standard 12m<sup>3</sup>/h Meter or a standard meter with a badged capacity of less than 18m<sup>3</sup>/h;</li><li>(b) Service Pipe from the main to the Delivery Point;</li></ul>

- (c) a User Specific Pressure Regulator;
- (d) any ancillary pipes and equipment (including a valve or valves);
- (e) in the case of Service B1, facilities which may take delivery of Gas at a Delivery Point on the Medium Pressure/Low Pressure System using Standard Delivery Facilities which include a Standard 18m<sup>3</sup>/h Meter or a standard Meter with a badged capacity of more than 18m<sup>3</sup>/h; and
- (f) in the case of Service A1 and Service A2, also such Telemetry, as determined by <Service Provider> as a reasonable person as is required given the nature of the other facilities, and Gas usage, at the relevant Delivery Point.

**User Specific Pressure Regulator** means a pressure regulator which is not a Standard Pressure Regulator.

**Year** means a period of 12 months.

## 23.2 Rules for interpreting this Service Agreement

Generally in interpreting this Service Agreement, 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 clause of the Retail Market Procedures or a rule of 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 clause, rule or provision;
  - (iii) a document (including this Service Agreement) or agreement, or a provision of a document (including this Service Agreement) or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iv) this Service Agreement includes all of its schedules and annexures;
  - (v) a "party" means a party to this Service Agreement;
  - (vi) a party to this Service Agreement or to any other document or agreement includes a permitted substitute, successor or assign of that party;

- (vii) 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;
  - (viii) "currency", "dollar" or "\$" is a reference to the Australian dollar; and
  - (ix) anything (including a right, obligation or concept) includes each part of it.
- (c) a reference in this Service Agreement to a clause, schedule or annexure is to a clause of, or schedule or annexure to, this Service Agreement.
  - (d) a singular word includes the plural, and vice versa;
  - (e) a word which suggests one gender includes all other genders;
  - (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 this Service Agreement includes "by", "in accordance with", "pursuant to" and "by virtue of";
  - (i) references to time are to the time in Western Australia (being Western Standard Time or, if it should be applicable, Western Summer Time);
  - (j) 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;
  - (k) 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;

- (l) words defined in the GST Law have the same meaning in this Service Agreement, unless expressly provided otherwise;
- (m) 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; and
- (n) 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 this Service Agreement to a quantity of Gas is a measure of Gas in gigajoules.

### **23.4 SI units**

Unless otherwise indicated, all units in this Service Agreement 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 this Service Agreement, any rounding applied in undertaking that calculation is to be applied in accordance with the provisions that relate to rounding under the Retail Market Procedures.

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

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

## 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 Reference Service provided under this Service Agreement by which **<Counterparty>** may take delivery of Gas at a Delivery Point on the ATCO GDS, and where:
  - (i) at the time **<Counterparty>** submitted its Application for Service A1 at a Delivery Point:
    - A. it was reasonably anticipated that **<Counterparty>** would take delivery of 35 TJ or more of Gas during each Year that **<Counterparty>** requested to obtain access to Service A1 at that Delivery Point; and
    - B. **<Counterparty>** requested a Contracted Peak Rate for the Delivery Point of 10 GJ or more per hour; and
  - (ii) **<Counterparty>** 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 **<Counterparty>** 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 **<Counterparty>**'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 **<Counterparty>**, any User Specific Delivery Facilities.

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

$$OC = OSR \times Q \text{ Overrun}$$

where:

OC = the Overrun Charge payable by <Counterparty> 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 <Counterparty>'s Contracted Peak Rate that was delivered to <Counterparty> at the Delivery Point during a period of time in which <Counterparty>'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 <Counterparty> of the obligation to pay the Charge determined under Tariff A1, or any other Charge payable under this Service Agreement, or any applicable Law, in respect of that gigajoule or part gigajoule.
- (c) If <Counterparty>'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 <Counterparty> 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 **<Counterparty>**'s Contracted Peak Rate, in which case **<Counterparty>** 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 **<Counterparty>** paying the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<Counterparty>** to no more than the Contracted Peak Rate, in which case **<Service Provider>** may install, and **<Counterparty>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<Counterparty>** to no more than the Contracted Peak Rate,
- and if **<Counterparty>** does not so elect within 10 Business Days, **<Service Provider>** may make the election on **<Counterparty>**'s behalf; or
- (iv) **<Service Provider>** is not prepared, having regard to the restrictions and pre-conditions specified in the Application Procedure, to increase **<Counterparty>**'s Contracted Peak Rate in accordance with this clause 8 of this Schedule 1, in which case **<Service Provider>** may install, and **<Counterparty>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<Counterparty>** to no more than the Contracted Peak Rate.

## 9. Deregistering and Permanent Removal of a Delivery Point

- (a) Subject to clause 5.6 of this Service Agreement **<Service Provider>** may permanently remove a Delivery Point. To effect this, **<Counterparty>** needs to engage **<Service Provider>** to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of "Remove the meter set and make safe".
- (b) **<Service Provider>** will permanently Deregister the Delivery Point by:
  - (i) permanently removing the Delivery Point in accordance with the Retail Market Procedures; and
  - (ii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.



- (c) **<Service Provider>** will notify **<Counterparty>** in writing once the Delivery Point has been Deregistered.
- (d) If **<Service Provider>** Deregisters the Delivery Point, then **<Counterparty>** must also contract the non-reference service “Remove the meter set and make safe” so as to obtain removal by Service Provider of the User Specific Delivery Facilities.
- (e) **<Counterparty>** must pay **<Service Provider>** the applicable Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism for the Deregistration of the Delivery Point and reimburse Service Provider all reasonable costs incurred by **<Service Provider>** in providing the “Remove the meter set and make safe” non-reference service (and with time of **<Service Provider>** personnel charged at **<Service Provider>**’s standard personnel rates for non-reference services).
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** Deregisters, or attempts to Deregister, the Delivery Point, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) **<Service Provider>** is not required to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of “Remove the meter set and make safe” if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## Schedule 2 - Service A2

### 1. General

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

- (d) **<Counterparty>** 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 **<Counterparty>** 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, **<Counterparty>** 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 **<Counterparty>** 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) of this Schedule 2 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 **<Counterparty>** 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 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 **<Counterparty>**'s Instantaneous Flow Rate 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 **<Counterparty>** 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 **<Counterparty>**'s Contracted Peak Rate in accordance with this clause 8 of this Schedule 2, in which case **<Counterparty>** 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 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 **<Counterparty>** paying the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<Counterparty>** to no more than the Contracted Peak Rate, in which case **<Service Provider>** may install, and **<Counterparty>** must pay the costs of **<Service Provider>** acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to **<Counterparty>** to no more than the Contracted Peak Rate, and if **<Counterparty>** does not so elect within 10 Business Days, **<Service Provider>** may make the election on **<Counterparty>**'s behalf; or
- (d) **<Service Provider>** is not prepared, having regard to the restrictions and pre-conditions specified in the Application Procedure, to increase **<Counterparty>**'s Contracted Peak Rate in accordance with this clause 8 of this Schedule 2, in which case

<Service Provider> may install, and <Counterparty> must pay the costs of <Service Provider> acquiring and installing, a flow control device at the Delivery Point which will regulate Gas deliveries to <Counterparty> to no more than the Contracted Peak Rate.

## 9. Deregistering and Permanent Removal of a Delivery Point

- (a) Subject to clause 5.6 of this Service Agreement <Service Provider> may permanently remove a Delivery Point. To effect this, <Counterparty> needs to engage <Service Provider> to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of “Remove the meter set and make safe”.
- (b) <Service Provider> will permanently Deregister the Delivery Point by:
  - (i) permanently removing the Delivery Point in accordance with the Retail Market Procedures; and
  - (ii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) <Service Provider> will notify <Counterparty> in writing once the Delivery Point has been Deregistered.
- (d) If <Service Provider> Deregisters the Delivery Point, then <Counterparty> must also contract the non-reference service “Remove the meter set and make safe” so as to obtain removal by Service Provider of the User Specific Delivery Facilities.
- (e) <Counterparty> must pay <Service Provider> the applicable Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism for the Deregistration of the Delivery Point and reimburse Service Provider all reasonable costs incurred by <Service Provider> in providing the “Remove the meter set and make safe” non-reference service (and with time of <Service Provider> personnel charged at <Service Provider>’s standard personnel rates for non-reference services).
- (f) If <Counterparty> cancels its request before <Service Provider> Deregisters, or attempts to Deregister, the Delivery Point, then <Counterparty> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (g) <Service Provider> is not required to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of “Remove the meter set and make safe” if <Service Provider> considers (acting reasonably) this would breach a Law.

## 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 Reference Service provided under this Service Agreement by which **<Counterparty>** may take delivery of Gas at a Delivery Point on the ATCO GDS, where:
  - (i) at the time **<Counterparty>** submitted its application for Service B1 at a Delivery Point either (or both):
    - A. it was reasonably anticipated that **<Counterparty>** would take delivery of less than 10 TJ of Gas during each Year **<Counterparty>** requested to obtain access to Service B1 under this Service Agreement;
    - B. **<Counterparty>** requested a Contracted Peak Rate for the Delivery Point of less than 10 GJ per hour; and
  - (ii) **<Counterparty>** requested User Specific Delivery Facilities at the Delivery Point; or
  - (iii) **<Counterparty>** 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 18m<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 **<Counterparty>** 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 **<Counterparty>**'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 **<Counterparty>**, any User Specific Delivery Facilities.

- (e) **<Counterparty>** 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 **<Counterparty>** 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, **<Counterparty>** 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 **<Counterparty>** 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 **<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 **<Counterparty>** at the Delivery Point.
- (b) **<Service Provider>** will read the Meter in accordance with the Retail Market Procedures or otherwise approximately 12 times each Year.

### 6. Prices

- (a) Service B1 is made available at Tariff B1.

- (b) The 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.

## 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) 18m<sup>3</sup>/h.

## 8. Deregistering and Permanent Removal of a Delivery Point

- (a) Subject to clause 5.6 of this Service Agreement **<Service Provider>** may permanently remove a Delivery Point. To effect this, **<Counterparty>** needs to engage **<Service Provider>** to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of "Remove the meter set and make safe".
- (b) **<Service Provider>** will permanently Deregister the Delivery Point by:
  - (i) permanently removing the Delivery Point in accordance with the Retail Market Procedures; and
  - (ii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<Service Provider>** will notify **<Counterparty>** in writing once the Delivery Point has been Deregistered.
- (d) If **<Service Provider>** Deregisters the Delivery Point, then **<Counterparty>** must also contract the non-reference service "Remove the meter set and make safe" so as to obtain removal by Service Provider of the User Specific Delivery Facilities.
- (e) **<Counterparty>** must pay **<Service Provider>** the applicable Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism for the Deregistration of the Delivery Point and reimburse Service Provider all reasonable costs incurred by **<Service Provider>** in providing the "Remove the meter set and make safe" non-reference service (and with time of **<Service Provider>** personnel charged at **<Service Provider>**'s standard personnel rates for non-reference services).
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** Deregisters, or attempts to Deregister, the Delivery Point, then **<Counterparty>** must pay the relevant



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

- (g) **<Service Provider>** is not required to provide the Reference Service of Deregistering a Delivery Point and the non-reference service of “Remove the meter set and make safe” if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 9. Special Meter Reading

- (a) **<Counterparty>** may request **<Service Provider>**, in writing, to undertake an out-of-cycle meter reading of a meter that is:

- (i) not required to be undertaken at an appointed time;
- (ii) a manually read meter;

at a Delivery Point under this Service Agreement by requesting **<Service Provider>** in writing to undertake a Special Meter Reading under the Retail Market Procedures.

- (b) **<Service Provider>** will use reasonable endeavours to undertake the Special Meter Reading within 2 Business Days of receiving **<Counterparty>**'s request.

- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.

- (d) If **<Service Provider>** undertakes the Special Meter Reading, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (e) Subject to clause 9(h), if **<Service Provider>** attempts to undertake the Special Meter Reading, but is unable to do so because it cannot gain access to the relevant land or premises, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (f) If **<Counterparty>** cancels its request before **<Service Provider>** undertakes the Special Meter Reading, then **<Counterparty>** 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 3 are a Service derived from the Reference Service described as Special Meter Reading in the Access Arrangement.

- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 9(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.

## 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 Reference Service B2 applies.
- (b) Service B2 is a Reference Service provided under this Service Agreement by which **<Counterparty>** 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 12m<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 **<Counterparty>** at each Delivery Point to which Reference 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 **<Counterparty>**, any Standard Delivery Facilities.
- (c) **<Counterparty>** 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 ATCO GDS at the Delivery Point and subject to any applicable Laws, the Nominal Delivery Pressure at which **<Service Provider>** will deliver Gas to **<Counterparty>** 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 **<Counterparty>** at the Delivery Point.

- (b) **<Service Provider>** must use reasonable endeavours to read the Meter at intervals of no more than 105 days.
- (c) Where **<Service Provider>** provides consumption data based on estimates, it must individually identify each data item that has been estimated.

## 5. Prices

- (a) Service B2 is made available at Tariff B2.
- (b) The 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) Subject to clause 5.6 of this Service Agreement **<Service Provider>** may permanently Deregister a Delivery Point.
- (b) **<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 Procedures; and
  - (iii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<Service Provider>** will notify **<Counterparty>** in writing once the Delivery Point has been Deregistered.
- (d) If **<Service Provider>** Deregisters the Delivery Point, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 7(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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (f) **<Counterparty>** is not required to pay the Reference Tariff under clause 7(e) if **<Service Provider>** fails to gain access to Deregister the Delivery Point as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.
- (g) If **<Counterparty>** cancels its request before **<Service Provider>** Deregisters, or attempts to Deregister, the Delivery Point, then **<Counterparty>** 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 4 are a Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.
- (i) **<Service Provider>** is not required to provide the Deregister a Delivery Point Service if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 8. Applying a Meter Lock to a Delivery Point

- (a) **<Counterparty>** 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 **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that:
  - (i) **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome, 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 **<Counterparty>** 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 8(h), 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (f) If **<Counterparty>** 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 **<Counterparty>** 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 Service derived from the Reference Service described as Applying a Meter Lock in the Access Arrangement.
- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 8(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.
- (i) **<Service Provider>** is not required to provide the Applying a Meter Lock to a Delivery Point Service if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 9. Removing a Meter Lock from a Delivery Point

- (a) **<Counterparty>** 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 **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.
- (d) If **<Service Provider>** removes the lock, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 9(h), 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** removes, or attempts to remove, the lock, then **<Counterparty>** 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 Service derived from the Reference Service described as Removing a Meter Lock in the Access Arrangement.

- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 9(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.

## 10. Disconnecting a Delivery Point

- (a) **<Counterparty>** may request **<Service Provider>**, in writing, to disconnect a Delivery Point by lodging a disconnection notice with **<Service Provider>** under the Retail Market Procedures.
- (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 **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request, or if Gas continues to flow at the Delivery Point, where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.
- (d) If **<Service Provider>** disconnects the Delivery Point, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 10(h), 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** disconnects or attempts to disconnect, the Delivery Point, then **<Counterparty>** 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 Service derived from the Reference Service described as Disconnecting a Delivery Point in the Access Arrangement.
- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 10(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.
- (i) **<Service Provider>** is not required to provide the Disconnecting a Delivery Point Service if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 11. Reconnecting a Delivery Point

- (a) <Counterparty> may request <Service Provider>, in writing, to reconnect a Delivery Point that was disconnected by <Service Provider> under this Service Agreement by lodging a reconnection notice with <Service Provider> under the Retail Market Procedures.
- (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 <Counterparty>'s request.
- (c) <Counterparty> acknowledges and agrees that <Service Provider> is not liable for a failure to comply with <Counterparty>'s request where such failure by <Service Provider> is as a result of an event or circumstance outside its reasonable control, which <Service Provider> could not have prevented or overcome.
- (d) If <Service Provider> reconnects the Delivery Point, then <Counterparty> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 11(h), 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 <Counterparty> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If <Counterparty> cancels its request before <Service Provider> reconnects, or attempts to reconnect, the Delivery Point, then <Counterparty> 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 Service derived from the Reference Service described as Reconnecting a Delivery Point in the Access Arrangement.
- (h) <Counterparty> is not required to pay the Reference Tariff under clause 11(e) if <Service Provider> fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which <Service Provider> could have prevented or overcome.

## 12. Special Meter Reading

- (a) <Counterparty> may request <Service Provider>, in writing, to undertake an out-of-cycle meter reading of a meter that is:
  - (i) not required to be undertaken at an appointed time;
  - (ii) a manually read meter;



at a Delivery Point under this Service Agreement by requesting **<Service Provider>** in writing to undertake a Special Meter Reading under the Retail Market Procedures.

- (b) **<Service Provider>** will use reasonable endeavours to undertake the Special Meter Reading within 2 Business Days of receiving **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.
- (d) If **<Service Provider>** undertakes the Special Meter Reading, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 12(h), if **<Service Provider>** attempts to undertake the Special Meter Reading, but is unable to do so because it cannot gain access to the relevant land or premises, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** undertakes the Special Meter Reading, then **<Counterparty>** 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 12 of this Schedule 4 are a Service derived from the Reference Service described as Special Meter Reading in the Access Arrangement.
- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 12(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.



## 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 Reference Service B3 applies.
- (b) Service B3 is a Reference Service provided under this Service Agreement by which **<Counterparty>** 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 **<Counterparty>** at each Delivery Point to which Reference Service B3 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 **<Counterparty>**, any Standard Delivery Facilities.
- (c) **<Counterparty>** 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 ATCO GDS at the Delivery Point and subject to any applicable Laws, the Nominal Delivery Pressure at which **<Service Provider>** will deliver Gas to **<Counterparty>** 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 **<Counterparty>** at the Delivery Point.

- (b) **<Service Provider>** must use reasonable endeavours to read the Meter at intervals of no more than 105 days.
- (c) Where **<Service Provider>** provides consumption data based on estimates, it must individually identify each data item that has been estimated.

## 5. Prices

- (a) Service B3 is made available at Tariff B3.
- (b) The 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) 10m<sup>3</sup>/h.

## 7. Deregistering a Delivery Point

- (a) Subject to clause 5.6 of this Service Agreement **<Service Provider>** may permanently Deregister a Delivery Point.
- (b) **<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 Procedures; and
  - (iii) removing the Delivery Point from the Delivery Point Register, in the manner it considers appropriate.
- (c) **<Service Provider>** will notify **<Counterparty>** in writing once the Delivery Point has been Deregistered.
- (d) If **<Service Provider>** Deregisters the Delivery Point, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 7(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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (f) **<Counterparty>** is not required to pay the Reference Tariff under clause 7(e) if **<Service Provider>** fails to gain access to Deregister the Delivery Point as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.
- (g) If **<Counterparty>** cancels its request before **<Service Provider>** Deregisters, or attempts to Deregister, the Delivery Point, then **<Counterparty>** 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 Service derived from the Reference Service described as Deregistering a Delivery Point in the Access Arrangement.
- (i) **<Service Provider>** is not required to provide the Deregister a Delivery Point Service if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 8. Applying a Meter Lock to a Delivery Point

- (a) **<Counterparty>** 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 **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that:
  - (i) **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome, 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 **<Counterparty>** 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 8(h), 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.

- (f) If **<Counterparty>** 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 **<Counterparty>** 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 Service derived from the Reference Service described as Applying a Meter Lock in the Access Arrangement.
- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 8(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.
- (i) **<Service Provider>** is not required to provide the Applying a Meter Lock to a Delivery Point Service if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 9. Removing a Meter Lock from a Delivery Point

- (a) **<Counterparty>** 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 **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.
- (d) If **<Service Provider>** removes the lock, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 9(h), 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** removes, or attempts to remove, the lock, then **<Counterparty>** 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 Service derived from the Reference Service described as Removing a Meter Lock in the Access Arrangement.

- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 9(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.

## 10. Disconnecting a Delivery Point

- (a) **<Counterparty>** may request **<Service Provider>**, in writing, to disconnect a Delivery Point by lodging a disconnection notice with **<Service Provider>** under the Retail Market Procedures.
- (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 **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request, or if Gas continues to flow at the Delivery Point where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.
- (d) If **<Service Provider>** disconnects the Delivery Point, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 10(h), 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 **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** disconnects, or attempts to disconnect, the Delivery Point, then **<Counterparty>** 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 Service derived from the Reference Service described as Disconnecting a Delivery Point in the Access Arrangement.
- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 10(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.
- (i) **<Service Provider>** is not required to provide the Disconnecting a Delivery Point Service if **<Service Provider>** considers (acting reasonably) this would breach a Law.

## 11. Reconnecting a Delivery Point

- (a) <Counterparty> may request <Service Provider>, in writing, to reconnect a Delivery Point that was disconnected by <Service Provider> under this Service Agreement by lodging a disconnection notice with <Service Provider> under the Retail Market Procedures.
- (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 <Counterparty>'s request.
- (c) <Counterparty> acknowledges and agrees that <Service Provider> is not liable for a failure to comply with <Counterparty>'s request where such failure by <Service Provider> is as a result of an event or circumstance outside its reasonable control, which <Service Provider> could not have prevented or overcome.
- (d) If <Service Provider> reconnects the Delivery Point, then <Counterparty> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 11(h), 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 <Counterparty> must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If <Counterparty> cancels its request before <Service Provider> reconnects, or attempts to reconnect, the Delivery Point, then <Counterparty> 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 Service derived from the Reference Service described as Reconnecting a Delivery Point in the Access Arrangement.
- (h) <Counterparty> is not required to pay the Reference Tariff under clause 11(e) if <Service Provider> fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which <Service Provider> could have prevented or overcome.

## 12. Special Meter Reading

- (a) <Counterparty> may request <Service Provider>, in writing, to undertake an out-of-cycle meter reading of a meter that is:
  - (i) not required to be undertaken at an appointed time; and
  - (ii) a manually read meter;

at a Delivery Point under this Service Agreement by requesting **<Service Provider>** in writing to undertake a Special Meter Reading under the Retail Market Procedures.

- (b) **<Service Provider>** will use reasonable endeavours to undertake the Special Meter Reading within 2 Business Days of receiving **<Counterparty>**'s request.
- (c) **<Counterparty>** acknowledges and agrees that **<Service Provider>** is not liable for a failure to comply with **<Counterparty>**'s request where such failure by **<Service Provider>** is as a result of an event or circumstance outside its reasonable control, which **<Service Provider>** could not have prevented or overcome.
- (d) If **<Service Provider>** undertakes the Special Meter Reading, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (e) Subject to clause 12(h), if **<Service Provider>** attempts to undertake the Special Meter Reading, but is unable to do so because it cannot gain access to the relevant land or premises, then **<Counterparty>** must pay the relevant Reference Tariff specified in Annexure C of the Access Arrangement as varied by the Reference Tariff Variation Mechanism.
- (f) If **<Counterparty>** cancels its request before **<Service Provider>** undertakes the Special Meter Reading, then **<Counterparty>** 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 12 of this Schedule 5 are a Service derived from the Reference Service described as Special Meter Reading in the Access Arrangement.
- (h) **<Counterparty>** is not required to pay the Reference Tariff under clause 12(e) if **<Service Provider>** fails to gain access to the relevant land or premises as a result of an event or circumstance within its reasonable control, which **<Service Provider>** could have prevented or overcome.

## Annexure A – Gas Quality Specifications

1. "Gas Quality Specifications" in this Service Agreement means both:
  - (a) where Gas is delivered to a Physical Gate Station from a gas transmission pipeline, the applicable standard in Schedule 1 of the *Gas Supply (Gas Quality Specifications) Regulations 2010* for that gas transmission pipeline (and where gas transmission pipeline has the meaning given to it in the *Gas Supply (Gas Quality Specifications) Act 2009*); and
  - (b) for all Gas delivered by <Counterparty> to a Physical Gate Station, the gas quality specification referred to in Regulation 5(2)(a) of the *Gas Standards (Gas Supply and System Safety) Regulations 2000*.

If there is a conflict between the requirements of paragraph (a) and (b) above the more stringent specification, standard or requirements will apply. To avoid doubt clause 23.2(b)(i) applies to the references to the above regulations.

2. If the maximum permitted values for carbon dioxide and oil in the regulations referred to in paragraph 1 above are greater than those specified below (or if there are no such values in the regulations), the values specified below will apply for the purposes of determining the Gas Quality Specification.

Component	Unit of Measurement	Specification Limit
Carbon Dioxide	mol%	4%
Oil	ml per TJ	20



## Annexure B – Bank Guarantee

[Name of Issuer]

ABN/ACN/ARBN [number]

TO: [Name and address of Beneficiary]

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Irrevocable Bank Guarantee [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

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.