

PROPOSED HAULAGE CONTRACT

between

ALINTAGAS NETWORKS PTY LTD (“NETWORKS”)

and

**ALINTAGAS SALES PTY LTD
 (“SALES”)**

28.2.2001

General Counsel

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HAULAGE CONTRACT

under

AlintaGas's Access Arrangement for the Mid-West and South-West Gas Distribution Systems

This *haulage contract* is made on the day of 2001,

BETWEEN

ALINTAGAS NETWORKS PTY LTD (ACN 089 531 975) of Level 7, The Quadrant, 1 William Street, Perth, Western Australia (“**Networks**”)

AND

ALINTAGAS SALES PTY LTD (ACN 089 531 984) of Level 7, The Quadrant, 1 William Street, Perth, Western Australia (“**Sales**”)

RECITALS

- A. *Networks* is the operator of the *AlintaGas GDS*.
- B. The *AlintaGas GDS* is a “Covered Pipeline” (as that term is defined in section 10.8 of the *Code*) under the *Code*.
- C. On 18 July 2000, the *Regulator* approved the *Access Arrangement*.
- D. This *haulage contract*, which is made under the *Access Arrangement*, sets out the terms and conditions upon which *Networks* will provide to *Sales* access to *Service A, Service B1, Service B2 and Service B3* for the haulage of gas from *receipt points* on the *DBNGP* to certain *delivery points*.
- E. Prior to the commencement of this *haulage contract*, *Networks* provided haulage and associated services to *Sales* as a user of the *AlintaGas GDS* under the *Memorandum of Understanding*. This *haulage contract* replaces the *Memorandum of Understanding*.

The parties agree as follows:

Division 1 – The Haulage Contract

Access Arrangement

1. This *haulage contract* is entered into under, and is subject to, the *Access Arrangement*.

Receipt and delivery of gas

2. *Sales* may take delivery of *gas* at each *delivery point* identified in the *register* on the terms and conditions set out in this *haulage contract*.

Duration of haulage contract, and start and end date for delivery points

3. (1) This *haulage contract* starts at 08:00 hours on the *commencement date*.
(2) This *haulage contract* ends when:

- (a) *Sales* is no longer entitled to take delivery of *gas* at any *delivery point* under this *haulage contract*; or
 - (b) this *haulage contract* is terminated under clause 51,
- whichever is the earlier.
- (3) *Sales* may take delivery of *gas* at a *delivery point* under clause 2 from 08:00 hours on the *start date* until 08:00 hours on the *end date*.
 - (4) The *start date* for a *delivery point* is:
 - (a) for a *delivery point* which is specified in the *register* at the *commencement date*, the *commencement date*;
 - (b) for any other *delivery point*, the date specified in the *register* as the *start date*.
 - (5) The *end date* for a *delivery point* is:
 - (a) if the *delivery point* is a *delivery point* to which *Service A* or *Service B1* applies and an *end date* is specified in the *register* for that *delivery point*:
 - (i) the date specified in the *register* as the *end date* for that *delivery point*; or
 - (ii) the date specified as the *end date* in a notice issued by *Sales* under clause 4.
 - (b) if the *delivery point* is a *delivery point* to which *Service A* or *Service B1* applies and an *end date* is not specified in the *register* for that *delivery point*, the date specified in a notice given by *Sales* to *Networks* as the *end date* for that *delivery point*, which date must be at least 3 business days after the date on which *Networks* receives the notice.
 - (c) if the *delivery point* is a *delivery point* to which *Service B2* or *Service B3* applies, the earlier of:
 - (i) the date (if any) specified in the *register* as the *end date* for that *delivery point* (if agreed);
 - (ii) the date on which the *end user* supplied with *gas* by *Sales* at that *delivery point* ceases to be supplied with *gas* at the *delivery point* by *Sales* and commences being supplied with *gas* at the *delivery point* by a *user* other than *Sales*; or
 - (iii) the date on which *Networks* discontinues the supply of *gas* at the *delivery point* under a disconnection service or otherwise.

Changing the end date for Service A and Service B1 to an earlier date

- 4. (1) This clause applies to each *delivery point* identified in Schedule 1 and Schedule 2 as at the *commencement date* and for which an *end date* is specified in the *register*
- (2) *Sales* may, for a *delivery point* to which this clause applies, give *Networks* a written notice specifying a date as the *end date* for that *delivery point*.
- (3) The date specified in a notice under sub-clause 4(2) for a *delivery point* must be a date which is earlier than the *end date* specified in the *register* for that *delivery point*.
- (4) If *Sales* wants to give a notice under sub-clause 4(2) to *Networks*, it must do so at least 1 month before the date specified in the notice as the *end date*.
- (5) To avoid doubt, this clause does not apply to:

- (a) *delivery points* which are added to the *register* under clause 7 after the *commencement date*;
- (b) *delivery points* which are not identified in Schedule 1 or Schedule 2; or
- (c) *delivery points* to which *Service B2* or *Service B3* apply.

Memorandum of Understanding terminated

5. The *Memorandum of Understanding* ends at the time this *haulage contract* starts under subclause 3(1).

Register of receipt points and delivery points

6. (1) *Networks* must establish and maintain for the purposes of this *haulage contract* a register of *delivery points*.
- (2) For each *delivery point* identified in the *register*, the *register* must specify whether *Service A*, *Service B1*, *Service B2* or *Service B3* applies.
- (3) For each *delivery point* to which *Service A* applies, the *register* must specify the following information:
- (a) a description of the physical location of the *delivery point*;
 - (b) the *receipt point* or *receipt points* at which the *designated supplier* will deliver *gas* into the *sub-network* for the transportation to the *delivery point*;
 - (c) the *interconnection distance* for the *delivery point*;
 - (d) the pressure which is the *nominal pressure* for the *delivery point*;
 - (e) the rate which is the *contracted peak rate* for the *delivery point*;
 - (f) the date which is the *start date* for the *delivery point*;
 - (g) the date which is the *end date* for the *delivery point*;
 - (h) a description of the *user specific delivery facilities* for the *delivery point*;
 - (i) the value of the *user specific delivery facilities* for the *delivery point*;
 - (j) 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 the *delivery point*;
 - (k) the amount of the annual *user specific charge* for the *user specific delivery facilities* for the *delivery point*; and
 - (l) if the applicable *tariff* is not a *reference tariff*, the amount of the applicable *tariff*.
- (4) For each *delivery point* to which *Service B1* applies, the *register* must specify the following information:
- (a) a description of the physical location of the *delivery point*;
 - (b) the *receipt point* or *receipt points* at which the *designated supplier* will deliver *gas* into the *sub-network* for the transportation to the *delivery point*;
 - (c) if the parties agree under paragraph 13(3)(b), the agreed pressure which is the *nominal pressure* for the *delivery point*;

- (d) the date which is the *start date* for the *delivery point*;
 - (e) the date which is the *end date* for the *delivery point*;
 - (f) a description of the *user specific delivery facilities* for the *delivery point*;
 - (g) the value of the *user specific delivery facilities* for the *delivery point*;
 - (h) 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 the *delivery point*;
 - (i) the amount of the annual *user specific charge* for the *user specific delivery facilities* for the *delivery point*; and
 - (j) if the applicable *tariff* is not a *reference tariff*, the amount of the applicable *tariff*.
- (5) For each *delivery point* to which *Service B2* or *Service B3* applies, the *register* must specify the following information:
- (a) a description of the physical location of the *delivery point*;
 - (b) the *receipt point* or *receipt points* at which the *designated supplier* will deliver *gas* into the *sub-network* for the transportation to the *delivery point*;
 - (c) a description of the *meter* for the *delivery point*;
 - (d) if the parties agree under paragraph 13(3)(b), the agreed pressure which is the *nominal pressure* for the *delivery point*;
 - (e) the date which is the *start date* for the *delivery point*;
 - (f) the date which is the *end date* for the *delivery point* (if agreed); and
 - (g) if the applicable *tariff* is not a *reference tariff*, the amount of the applicable *tariff*.
- (6) The content of the *register* for:
- (a) *delivery points* to which *Service A* or *Service B1* apply as at the commencement of this *haulage contract* is set out in **Error! Reference source not found.** and **Error! Reference source not found.** respectively; and
 - (b) *delivery points* to which *Service B2* and *Service B3* apply as at the *commencement date* comprises those parts of the Customer Information System as at the *commencement date* that specify the information required by paragraph 6(5).
- (7) In paragraphs 6(3)(b), 6(4)(b) and 6(5)(b), “the *sub-network*” means the *sub-network* which the relevant *delivery point* is on.

Adding delivery points, increasing contracted peak rate or extending end date for a delivery point

7. (1) Subject to subclause 7(2), *Sales* may request *Networks* to:
- (a) add a new *delivery point* to the *register*;
 - (b) increase the *contracted peak rate* for a *delivery point* identified in the *register* to which *Service A* or *Service B1* applies; or
 - (c) change the *end date* for a *delivery point* to a date which is later than the *end date* specified in the *register* for that *delivery point*.

- (2) A request under subclause 7(1) is subject to:
 - (a) the *Queuing Policy* set out in Chapter 6 of the *Access Arrangement*;
 - (b) clause 17 of the *Access Arrangement* and the *Applications Procedure*; and
 - (c) clause 19 of the *Access Arrangement*.
- (3) If *Sales* makes a request under subclause 7(1) and *Networks* agrees to it, *Networks* must make appropriate adjustments to the *register* in accordance with subclause 6(1).

Interconnection contracts

8. (1) The *interconnection contract* applicable to each *receipt point* specified in the *register* is the *interconnection contract* in force from time to time between *Networks* and the operator of the *interconnected pipeline* to which that receipt point relates.
- (2) It is a condition of *Sales*' right to take deliveries of *gas* under this *haulage contract* that there is a current *interconnection contract* for each *receipt point* specified in the *register* at all relevant times and that no party to that *interconnection contract* is currently in breach.
- (3) To the extent that an *interconnection contract* is terminated or breached as a result of the negligence or default of *Networks* then, except to the extent that *Networks* is excused by another provision of this *haulage contract*, *Networks* is liable to *Sales* for any *direct damage* suffered by *Sales* as a result of an interruption or curtailment of *gas* delivery under subclause 8(2).

{Note: Examples of other provisions of this *haulage contract* which may excuse *Networks* from liability are clause 39 (*force majeure*) and clause 42 (no liability for *indirect damage*).}
- (4) To the extent that an *interconnection contract* is terminated or breached other than as a result of the negligence or default of *Networks*, then *Networks* may interrupt or curtail *gas* delivery under subclause 8(2) without liability to *Sales*.
- (5) To the extent that an *interconnection contract* requires *Networks* to comply with gas quality specifications, *Sales* agrees to be bound by those *gas* quality specifications.
- (6) Subject to *Networks* acting as a prudent *pipeline* operator, to the extent that *Networks* is liable for a penalty or charge under an *interconnection contract* because of the actions of *Sales* under this *haulage contract*, *Sales* must, if requested by *Networks*, pay to *Networks* an amount equal to the penalty or charge incurred by *Networks* under the *interconnection contract*.
- (7) Subject to subclause 8(8), *Networks* may disclose to an operator of an *interconnected pipeline* information which *Networks* reasonably determines, as a 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 *AlintaGas GDS*.
- (8) *Networks* must use reasonable endeavours as a prudent network operator to present any *confidential information* disclosed to the operator of an *interconnected pipeline* under subclause 8(7) in an aggregated or anonymous form.

Contracted peak rate

9. (1) The *contracted peak rate* for *Service A* at a *delivery point* is the *contracted peak rate* set out in the *register* for the *delivery point*.
- (2) The *contracted peak rate* for *Service B1* at a *delivery point* is the highest flow rate at which *gas* can be delivered by *Networks* at the *delivery point* using the *user specific delivery facilities* at the *delivery point*.
- (3) The *contracted peak rate* for *Service B2* at a *delivery point* is the lesser of:

- (a) the highest flow rate at which *gas* can be delivered by *Networks* at the *delivery point* using the *standard delivery facilities* at the *delivery point*; and
 - (b) 12 m³/h.
- (4) The *contracted peak rate* for *Service B3* at a *delivery point* is the lesser of:
- (a) the highest flow rate at which *gas* can be delivered by *Networks* at the *delivery point* using the *standard delivery facilities* at the *delivery point*; and
 - (b) 6 m³/h.

Relationship between the parties

10. *Networks* may from time to time require *Sales* to:

- (a) provide security for the performance of its obligations under this *haulage contract* which security may only be of such type and such extent as is the minimum amount necessary to protect *Networks*' legitimate business interests;
- (b) pay all amounts owing under this *haulage contract* to continue to receive one or more of the *services* under this *haulage contract*;
- (c) demonstrate its compliance with *Networks*' minimum insurance and prudential requirements, including its ability to meet all financial obligations under this *haulage contract*;
- (d) provide evidence of the identity of the *designated supplier*,

and (without limiting any other remedies which may be available to it) *Networks* may refuse to deliver *gas* to *Sales* for so long as the relevant requirement remains unsatisfied.

Delivery facilities

11. (1) For *Service A* at a *delivery point*:

- (a) *Networks* must provide *user specific delivery facilities* to measure the amount of *gas* taken by *Sales* which 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) *Networks* must design and construct all *user specific delivery facilities*, and have regard to *Sales*' reasonable requirements in doing so.

(2) For *Service B1* at a *delivery point*:

- (a) *Networks* must provide *user specific delivery facilities* to measure the amount of *gas* taken by *Sales*;
- (b) *Networks* must design and construct all *user specific delivery facilities*, and have regard to *Sales*' reasonable requirements in doing so.
- (c) If at the time *Sales* submitted the *application* it was reasonably anticipated that *Sales* would take delivery of more than 20 terajoules of *gas* at a *delivery point* during each year of this *haulage contract* (whether from the *high pressure system* or *medium pressure system/low pressure system*), then the *user specific delivery facilities* at that *delivery point* must 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*.
- (d) If at the time *Sales* submitted the *application* it was reasonably anticipated that *Sales* would take delivery of 20 terajoules of *gas* or less during each *year* of this *haulage contract* at a *delivery point*, then the *user specific delivery facilities* at that *delivery point* must include, as a minimum, a *meter* which:
- (i) may, at the discretion of *Networks*, read by means of telemetry; and
 - (ii) aggregates the flow of *gas* between readings.
- (3) For *Service B2* or *Service B3* at a *delivery point*, *Networks* must provide *standard delivery facilities* to measure the amount of *gas* taken by *Sales* which aggregate the flow of *gas* between readings.
- (4) *Networks* owns and must operate and maintain, and may from time to time modify, *user specific delivery facilities* and *standard delivery facilities*.
- (5) *Sales* must use its reasonable endeavours to cooperate with *Networks* in installing, operating, maintaining, and modifying *user specific delivery facilities* and *standard delivery facilities* including, without limitation, providing or procuring access to all land to which access is required for those purposes or any of them.
- (6) Nothing in subclause 11(5) limits *Networks*' powers under the *Energy Coordination Act 1994* or the *Energy Operators (Powers) Act 1979*.

Accuracy verification

12. *Networks* must verify the accuracy of the *meter* forming part of any *user specific delivery facilities* with the frequency required by good industry practice and applicable *laws*.

Gas pressure

13. (1) *Networks* must use reasonable endeavours to deliver *gas* to *Sales* at a *delivery point* at the *nominal pressure* for that *delivery point*.
- (2) The *nominal pressure* for a *delivery point* to which *Service A* applies is the pressure specified in the *register* as the *nominal pressure* for that *delivery point*.
- (3) The *nominal pressure* for a *delivery point* to which *Service B1* applies is:
- (a) unless the parties agree that a particular pressure is to apply as the *nominal pressure* under paragraph 13(3)(b), the *nominal pressure* associated with the *user specific delivery facilities* at the *delivery point*; or
 - (b) if the parties agree that a particular pressure is to apply as the *nominal pressure*, the agreed pressure.
- (4) The *nominal pressure* for a *delivery point* to which *Service B2* or *Service B3* applies is:
- (a) unless the parties agree on a different pressure for the *delivery point* under paragraph 13(4)(b), a pressure not exceeding 7 kPa, as regulated by the *standard delivery facilities* at the *delivery point*; or
 - (b) if the parties agree on a different pressure, the agreed pressure.

Meter reading

14. (1) For each *delivery point* to which *Service A* applies, and each *delivery point* to which *Service B1* applies where the *user specific delivery facilities* include a *meter* which is read by means of telemetry:
- (a) *Networks* is responsible for calculating and recording the quantity of *gas* delivered to *Sales* at the *delivery point*, by telemetry reading;
 - (b) *Networks* must endeavour to take telemetry readings every day for the purpose of complying with paragraph 14(1)(a); and
 - (c) *Networks* must approximately 12 times each *year* at intervals of approximately 30 days report to *Sales* the following information:
 - (i) the uncorrected raw *meter* volume reading of *gas* delivered (in cubic metres);
 - (ii) the volume of *gas* delivered corrected for pressure, temperature and, where applicable, super compressability (in standard cubic metres);
 - (iii) the flow weighted average daily pressure;
 - (iv) the flow weighted average daily temperature;
 - (v) the maximum hourly flow rate for the day (in standard cubic metres), and the hour in which it occurred;
 - (vi) the computed energy quantity of *gas* delivered for the period to which the report relates; and
 - (vii) the Higher Heating Value used to compute the energy quantity referred to in subparagraph 14(1)(c)(vi).
- (2) For each *delivery point* to which *Service B1* applies where the *user specific delivery facilities* do not include a *meter* which is read by means of telemetry:
- (a) *Networks* is responsible for calculating and recording the quantity of *gas* delivered to *Sales* at the *delivery point*;
 - (b) *Networks* must read the *meter* approximately 12 times each *year* at intervals of approximately 30 days; and
 - (c) within 3 *business days* of a *meter* reading, *Networks* must report to *Sales* the following information for the period to which the *meter* reading relates:
 - (i) the uncorrected raw *meter* volume reading of *gas* delivered (in cubic metres);
 - (ii) the volume of *gas* delivered corrected for pressure, temperature and, where applicable, super compressability (in standard cubic metres);
 - (iii) the computed energy quantity of *gas* delivered for the period to which the report relates; and
 - (iv) the Higher Heating Value used to compute the energy quantity referred to in subparagraph 14(2)(c)(iii).
- (3) For each *delivery point* to which *Service B2* or *Service B3* applies:
- (a) *Networks* is responsible for calculating and recording the quantity of *gas* delivered to *Sales* at the *delivery point*;

- (b) *Networks* must read the *meter* approximately 4 times each *year* at intervals of approximately 90 days; and

{Note: If *Sales* requires the *meter* for a *delivery point* to which *Service B2* or *Service B3* applies to be read monthly, *Networks* may be prepared to provide and charge for an additional *meter* reading service.}

- (c) Within 3 *business days* of a *meter* reading, *Networks* must report to *Sales* the following information:

- (i) the uncorrected raw *meter* volume reading of *gas* delivered (in cubic metres);
 - (ii) the volume of *gas* delivered corrected for pressure and temperature (in standard cubic metres);
 - (iii) the computed energy quantity of *gas* delivered; and
 - (iv) the Higher Heating Value used to compute the energy quantity referred to in 14(3)(c)(iii).
- (4) *Networks* must make the pressure, temperature and, where applicable, super compressibility corrections referred to in subparagraph 14(1)(c)(ii), 14(2)(c)(ii) and 14(3)(c)(ii), and the volume to energy calculations referred to in subparagraphs 14(1)(c)(vi), 14(2)(c)(iii) and 14(3)(c)(iii) in accordance with good *gas* industry practice and applicable standards.

Prices

15. (1) For *Service A* at a *delivery point* *Sales* must pay *Networks* either the *tariff* specified in the *register* for the *delivery point* or, if no *tariff* is specified, *Reference Tariff A*.
- (2) For *Service B1* at a *delivery point* *Sales* must pay *Networks* either the *tariff* specified in the *register* for the *delivery point* or, if no *tariff* is specified, *Reference Tariff B1*.
- (3) For *Service B2* at a *delivery point* *Sales* must pay *Networks* either the *tariff* specified in the *register* for the *delivery point* or, if no *tariff* is specified, *Reference Tariff B2*.
- (4) For *Service B3* at a *delivery point* *Sales* must pay *Networks* either the *tariff* specified in the *register* for the *delivery point* or, if no *tariff* is specified, *Reference Tariff B3*.

Division 2 – Title to Gas

Title to gas

16. (1) *Networks* has title to and possession of all *gas* in the *AlintaGas GDS*.
- (2) *Sales* indemnifies *Networks* against any claim brought against *Networks* in respect of any *gas* delivered into the *AlintaGas GDS* for transportation to a *delivery point* under this *haulage contract*:
- (a) claiming any interest in, or making any claim of any nature over, the *gas*; or
 - (b) in respect of any 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 *Sales* and the *designated supplier*) before or arising out of the delivery of the *gas* to *Networks*.

Only Sales may take delivery, title and possession of gas from Networks

17. (1) All *gas* delivered under this *haulage contract* by *Networks* at a *delivery point* must be received by *Sales* only.

- (2) To the extent that there has been a transfer of title to *Networks* at the *receipt point*, the delivery by *Networks* to *Sales* at a *delivery point* is a transfer of title to and possession of the *gas* from *Networks* to *Sales*, effective at the *delivery point* at the time of the delivery, and free and clear of all claims of any nature.
- (3) *Sales* may agree with any other person to transfer to the person title to and possession of *gas* delivered by *Networks* to *Sales* at the *delivery point* at any time after *Sales* receives title and possession from *Networks*.

Sales' entitlement to receive gas is contractual

18. *Sales'* entitlement to receive *gas* under this *haulage contract* is a contractual entitlement and not a proprietary entitlement.

Division 3 – Metering

Provision of data

19. (1) Where a *meter* is read by means of telemetry, *Networks* must use reasonable endeavours to provide unverified metering data to *Sales* for customer billing purposes as soon as possible and in any event within 1 *business day* after the *meter* is read by *Networks*.
- (2) Where a *meter* is not read by means of telemetry, *Networks* must use reasonable endeavours to provide unverified metering data to *Sales* for customer billing purposes as soon as possible and in any event within 3 *business days* after the *meter* is read by *Networks*.

Metering uncertainty

20. (1) *User specific delivery facilities* and *standard delivery facilities* at a *delivery point* must be designed, adjusted, operated and maintained so as to achieve the best accuracy of measurement which is, having regard to:
 - (a) the nature and length of the period during which *Sales* is entitled to take delivery of gas at the *delivery point*; and
 - (b) the magnitude of *Sales'* *contracted peak rate* at the *delivery point*,technically and economically feasible consistent with the standard of a prudent *service provider* acting efficiently, in accordance with accepted good industry practice, and to achieve the lowest sustainable cost of delivering *services*.
- (2) Unless a *meter* is shown to be *inaccurate*, readings from the *meter* are by this clause deemed to be accurate.
- (3) For the purposes of this clause, a *meter* is “**inaccurate**” if in the opinion of *Networks*, having regard to accepted good industry practice, the *meter*:
 - (a) is not registering the quantity of *gas* supplied; or
 - (b) is not registering the quantity of *gas* supplied with appropriate accuracy, or otherwise is not in proper order, having regard to:
 - (i) the nature and duration of contracted deliveries at the *delivery point*; and
 - (ii) the magnitude of *Sales'* *contracted peak rate* at the *delivery point*.
- (4) If a *meter* is shown to be, or to have been, *inaccurate*:
 - (a) the party which discovers the *inaccuracy* must immediately notify the other party;

- (b) *Networks* must determine or estimate the period for which the *meter* was *inaccurate*; and
- (c) the quantity of *gas* supplied to *Sales* during the period for which the *meter* was *inaccurate* is by this clause deemed to be an amount that:
 - (i) where practicable, is calculated by *Networks* by reference to the results obtained from a test of the *meter*; or
 - (ii) otherwise, is estimated by *Networks* under subclause 20(5).
- (5) An estimation under subparagraph 20(4)(c)(ii) may in *Networks*' reasonable discretion be made by reference to one or more of:
 - (a) a test of the *inaccurate meter* done in a manner approved by *Networks*;
 - (b) the quantity of *gas* supplied to *Sales* for the corresponding period of the preceding *year*, allowing for any known variation in *Sales*' demand for *gas*;
 - (c) the quantity of *gas* supplied to *Sales* for the immediately preceding *invoicing period*, allowing for any known variation in *Sales*' demand for *gas*; or
 - (d) such other basis as *Networks* reasonably determines.
- (6) If *Networks* makes a calculation under subparagraph 20(4)(c)(i) or an estimation under subparagraph 20(4)(c)(ii), then it must, if requested by *Sales*, inform *Sales* of the basis for the calculation or estimation.
- (7) If a calculation under subparagraph 20(4)(c)(i) or an estimation under subclause 20(4)(c)(ii) reveals that a charge previously invoiced to *Sales* was not what it should have been, then subject to subparagraph 20(9), the difference between what was charged and what should have been charged must be treated as an underpayment or overpayment under clause 26.
- (8) If *Networks* makes a calculation under subparagraph 20(4)(c)(i) or an estimation under subparagraph 20(4)(c)(ii), and more accurate information subsequently becomes available, then subject to subparagraph 20(9) the difference between what was charged and what should have been charged must be treated as an underpayment or overpayment under clause 26.
- (9) Corrections under subparagraphs 20(7) and 20(8) may only be made in respect of a period of (at most) 12 months prior to the time the *meter* was shown to be *inaccurate*.
- (10) The provisions of this clause also apply, with appropriate amendments, in circumstances where, whether or not a *meter* has been shown to be *inaccurate*:
 - (a) by agreement between *Networks* and *Sales* or for any other reason, a *meter* has not been read;
 - (b) a *meter* is shown to have been read incorrectly;
 - (c) subject to clause 21, a correction or calculation is shown to have been made incorrectly.

{Note: Relevant corrections or calculations include those referred to in subparagraph 14(4).}

Use of gas quality data from other locations

- 21. (1) *Networks* may calculate energy flow rates and quantities of *gas* delivered to a *delivery point* by using information (derived using suitable instrumentation such as a *gas* chromatograph) from one or more other locations that it reasonably deems representative of the quality of *gas* delivered at the *delivery point*, including information provided to it by the operator of an *interconnected pipeline*.

- (2) If *gas* is delivered into a *sub-network* from more than one *receipt point*, *Networks* must determine the Higher Heating Value of *gas* delivered at *delivery points* on that *sub-network* by taking into account the quantity of *gas* flowed into the *sub-network* from each *receipt point* and the energy content of that *gas*.
- (3) *Networks* may, in its absolute discretion, divide a sub-network into more than one zone and apply the calculations referred to in sub-clause 21(2) to each zone separately.
- (4) *Networks* may, in its absolute discretion, apply the calculations referred to in clause 21(2) on a zonal basis within a *sub-network* if it believes that it would provide a significantly more accurate reflection of the HHV of *gas* delivered to the *delivery points* on the *sub-network*.

Division 4 – Balancing

Gas balancing

22. (1) *Sales* must endeavour in good faith to ensure that the quantity of *gas* delivered at a *receipt point* by a *designated supplier* for or on behalf of *Sales* on each day is equal (in terms of energy content) to the quantity withdrawn at the *delivery point* by *Sales* on the day.
- (2) *Networks* may do all reasonable things to maintain a balance between total energy content of *gas* inputs to, and total energy content of *gas* outputs from, the *AlintaGas GDS*.

Division 5 – Invoicing and Payment

Invoicing

23. (1) *Networks* will invoice *Sales* approximately 12 times each *year* at intervals of approximately 30 days, in arrears, with each invoice reflecting all *meter* readings taken, or estimates made during the *invoicing period*.
- (2) Each invoice must show:
 - (a) all charges payable under this *haulage contract* for the *invoicing period*;
 - (b) a summary of any metering information used to calculate the charges referred to in paragraph 23(2)(a);
 - (c) all other amounts (if any) which are payable in arrears or credited or debited for the *invoicing period* under this *haulage contract*;
 - (d) any outstanding amounts from previous *invoicing periods* and the interest payable on those amounts, and any outstanding credits carried forward under subclause 23(3); and
 - (e) such other information as the parties may agree.
- (3) If the sum of all credits shown on an invoice exceeds the sum of all amounts shown as payable on the invoice, then no amount is payable in respect of that *invoicing period*, and (subject to subclause 23(4)) any residual credits are carried forward without interest to the next *invoicing period*, and so on.
- (4) Any credit or debit which remains or accrues to *Sales*' account after the last invoice has been issued at the end of this *haulage contract* must be dealt with by an appropriate payment from one party to the other.

Payment within 15 business days

24. (1) *Sales* must, within 15 *business days* after receiving an invoice, pay to *Networks* in the manner shown on the invoice the net amount shown on the invoice as payable under this *haulage contract*.
- (2) If *Sales* fails to comply with subclause 24(1) then, without prejudice to *Networks*' other rights, *Sales* must pay interest on any unpaid amount calculated daily at the *prescribed interest rate* from 15 *business days* after receiving the invoice until payment.

Disputed invoices

25. (1) If *Sales* disputes any amount set out in an invoice to be payable, then *Sales* must under clause 24 pay the undisputed portion (if any) and one half of the disputed portion of the amount shown on the invoice, and must, within 15 *business days* after receiving an invoice, give written notice to *Networks* that it disputes the amount and provide in that written notice full details of the dispute.
- (2) Any amount withheld by *Sales* under this clause but subsequently found to have been payable is, without prejudice to *Networks*' other rights, to attract interest calculated daily at the *prescribed interest rate* from 15 *business days* after receiving the invoice until payment.
- (3) Any amount paid by *Sales* under this clause but subsequently found not to have been payable is, without prejudice to *Sales*' other rights, to attract interest calculated daily at the *prescribed interest rate* from the date *Sales* paid the amount until the date *Networks* repays the amount to *Sales*.

Correction of payment errors

26. (1) If a party detects any underpayment or overpayment by a party of any amount, the detecting party must give written notice to the other party of the underpayment or overpayment, and an adjusting payment must be made by the appropriate party within 10 *business days* after receiving that written notice.
- (2) If a party fails to make an adjusting payment in accordance with subclause 26(1) then, without prejudice to the parties' other rights, the party required to make the adjusting payment must pay interest on any unpaid amount, calculated daily at the *prescribed interest rate*, from 10 *business days* after receiving the written notice until payment.

Pricing if agreement continues beyond end of current Access Arrangement period

27. (1) This clause applies to determine the prices payable at a *delivery point* under this *haulage contract* if:
- (a) the price payable at the *delivery point* under clause 15 is a *reference tariff*; and
- (b) the duration of this *haulage contract* continues beyond the end of the current *Access Arrangement period* ("**current Access Arrangement period**").
- (2) If:
- (a) an *Access Arrangement* ("**revised Access Arrangement**") is approved in respect of the *Access Arrangement period* which immediately follows the *current Access Arrangement period* ("**new Access Arrangement period**"), containing a *reference service* ("**equivalent reference service**") which is materially the same as the *service* applying at the *delivery point* under this *haulage contract* ("**contracted service**") – then for so much of the remaining duration of this *haulage contract* which falls within the *new Access Arrangement period*, *Sales*' obligation under this *haulage contract* to pay the *reference tariff* for the *contracted service* at the *delivery point* is to be read as an obligation to pay the *reference tariff* approved and adjusted from time to time under the *revised Access Arrangement* in respect of the *equivalent reference service*;

- (b) a *revised Access Arrangement* is approved in respect of the *new Access Arrangement period* but does not contain an *equivalent reference service* – then for so much of the remaining duration of this *haulage contract* which falls within the *new Access Arrangement period*, *Sales'* obligation under this *haulage contract* to pay the *reference tariff* for the *contracted service* at the *delivery point* is to be read as an obligation to pay the *reference tariff* as determined for the last year of the *current Access Arrangement period*, increased annually at “CPI-X” with the value of “X” being that specified (if applicable) in the *revised Access Arrangement* for the relevant year of the *new Access Arrangement period* or (otherwise) specified in Schedule 2 of the *Access Arrangement* for the last year of the *current Access Arrangement period*; or
 - (c) for any reason (including the repeal or amendment of the *Act*) there is no *new Access Arrangement period* or no *revised Access Arrangement* is approved – then for the remaining duration of this *haulage contract* after the end of the *current Access Arrangement period* *Sales'* obligation under this *haulage contract* to pay the *reference tariff* for the *contracted service* at the *delivery point* is to be read as an obligation to pay the *reference tariff* as determined for the last year of the *current Access Arrangement period*, increased annually at “CPI-X” with the value of “X” being that specified in Schedule 2 of the *Access Arrangement* for the last year of the *current Access Arrangement period*.
- (3) This clause applies, with appropriate modifications, in respect of the end of the *new Access Arrangement period* and the end of each successive *Access Arrangement period* thereafter for the duration of this *haulage contract*.
- (4) For the purposes of subclause 27(2), either party may give written notice to the other party contending that the *revised Access Arrangement* does not contain an *equivalent reference service*. If the party which receives that notice does not agree in writing with that contention within 20 *business days* after receiving the contention, a dispute exists for the purposes of this *haulage contract*.
- (5) To avoid disruption to contracted *tariffs*, *Networks* must use reasonable endeavours to ensure that a *revised Access Arrangement* contains a *service* (with an associated *tariff*) which is materially the same as each *contracted service* applying under this *haulage contract*, but nothing in this subclause limits *Networks'* right to create new *reference services* or to develop new *reference tariff* policies and structures.

Division 6 – Interruption and Curtailment

Interruptibility

28. (1) Subject to sub-clause 28(2), if and to the extent that *Service A, Service B1, Service B2 or Service B3* is provided at a *delivery point* out of the unutilised *contracted peak rate* of another *user or users*, it is *interruptible capacity*.
- (2) The *contracted peak rate* at the *delivery points* at which *Sales* is entitled to take delivery of *gas* as at the *commencement date* is not *interruptible capacity*.
- (3) *Networks* may effect an interruption of *interruptible capacity* at a *delivery point* if, in *Networks'* reasonable opinion, it is necessary to do so to enable the *user or users* out of whose *contracted peak rate* the interruptible capacity is provided to utilise its or their *contracted peak rate* at the *delivery point*.
- (4) *Networks* may effect an interruption of *interruptible capacity* at a *delivery point* by:
- (a) giving *Sales* a written notice no less than 24 hours before the time it intends to effect the interruption requiring *Sales* to not use the *interruptible capacity* at the *delivery point*; and
 - (b) if *Sales* does not comply with a notice given under paragraph 28(4)(a), wholly or partially curtailing the quantity or pressure of *gas* deliveries to *Sales* at the *delivery point*.
- (5) If *Sales* does not comply with a notice given under paragraph 28(4)(a), *Sales*:
- (a) is in default under this *haulage contract*; and
 - (b) is liable to *Networks* (including its directors, servants, consultants, independent contractors and agents) for, and indemnifies *Networks* (including its directors, servants, consultants, independent contractors and agents) against, any *direct damage* to *Networks* caused by or arising out of the failure to comply with the notice.

Networks to minimise curtailment

29. *Networks* must in its operation and maintenance of the *AlintaGas GDS* use reasonable endeavours to minimise the magnitude and duration of any curtailment of *gas* deliveries to *Sales*, except where the curtailment is attributable to the default of *Sales*.

Curtailment

30. (1) *Networks* may wholly or partly curtail the quantity or pressure of *gas* deliveries to *Sales* at a *delivery point*:
- (a) if the level of *capacity* falls or remains below that necessary to meet all *users'* requirements;
 - (b) during any *emergency* or while *Networks* is experiencing any event of *force majeure*;
 - (c) if *Sales* exceeds its *contracted peak rate* at the *delivery point*;
 - (d) if any requirement of clause 67 of the *Access Arrangement* is not met;
 - (e) if the *designated supplier* in respect of the *gas* is not entitled to have delivered, or fails to have delivered, an equivalent quantity of *gas* at a *receipt point*;
 - (f) if *Networks* has refused to accept *gas* from the relevant *interconnected pipeline* due to the *gas* not complying with applicable *gas* quality requirements;

- (g) under clause 32, to permit *Networks* to undertake any *extension or expansion*;
 - (h) if *Sales* is in default under this *haulage contract*;
 - (i) if *Networks* considers as a reasonable person that it would be unsafe or may give rise to an unsafe situation for the operation of the *AlintaGas GDS* to deliver *gas* to *Sales* at the *delivery point*;
 - (j) if *Networks* becomes aware of any non-compliance with the *Gas Standards (Gas Fitting and Consumers' Gas Installations) Regulations 1999* or the *Gas Standards (Gas Supply and System Safety) Regulations 2000* downstream of the *delivery point* by *Sales*, a *gas* customer or any other person which may give rise to an unsafe situation; and
 - (k) in any other circumstance specified in or permitted by this *haulage contract*.
- (2) *Networks* must where practicable use reasonable endeavours to provide *Sales* with a reasonable advance warning of the magnitude, starting time and expected duration of an impending curtailment of *gas* deliveries to *Sales* and the reasons for the curtailment.

Procedures for curtailment

31. *Networks* must effect a curtailment of *gas* deliveries to *Sales* in accordance with “AlintaGas Networks’ Procedure for Curtailment DD-P-22161”, as amended by *Networks* from time to time.

Curtailment for system reinforcement

32. *Networks* may:

- (a) at any time by arrangement with *Sales*; or
- (b) at any time at least 90 days after giving *Sales* written notice,

wholly or partially curtail *gas* deliveries to *Sales* to the extent reasonably necessary to permit *Networks* to undertake any *extension or expansion* or any maintenance of the *AlintaGas GDS*.

Networks’ powers in an emergency not limited

33. Nothing in this Division 6 by implication or otherwise limits *Networks*’ powers in an *emergency*.

Division 7 – Technical and Operational Matters

Gas Quality

34. Without limiting clause 1 of this *haulage contract*, clause 20 of the *Access Arrangement* applies to this *haulage contract*.

Unaccounted for gas

35. *Networks* must replace *gas* which is lost while in its control.

Gas losses and gas consumed by Networks

36. *Networks* may commingle with other *gas* in the *AlintaGas GDS* any *gas* purchased by *Networks* to replace:
- (a) *gas* used by *Networks* in its operation of the *AlintaGas GDS*; or
 - (b) *gas* lost from the *AlintaGas GDS* or otherwise unaccounted for.

Emergencies

37. (1) Without limiting any other power under the *Code*, the *Access Arrangement*, this *haulage contract*, or any *law*, and despite any other provision of the *Code*, the *Access Arrangement* or this *haulage contract*, *Networks* may in an *emergency* without notice to any other persons do all things which it considers necessary to prevent injury, death, loss or damage to persons or property and to render the situation safe, including without limitation 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 *AlintaGas GDS* and giving any reasonable instructions to *users*.
- (2) *Networks* must as soon as practicable after determining that an *emergency* exists give written notice of the *emergency* to all *users* affected either by the *emergency* or by *Networks*' actions in dealing with the *emergency*, but a failure to give such written notice does not limit *Networks*' powers under subclause 37(1).
- (3) *Networks* must, as soon as practicable after the *emergency* has been dealt with, remove itself and any person, machinery, equipment or thing under its control, from any land or premises onto which it entered under subclause 37(1), except to the extent that the person, machinery, equipment or thing is required to continue dealing with the *emergency* or to prevent its recurrence or to comply with any obligation imposed on *Networks* by any *law*.
- (4) *Sales* must comply with any reasonable instruction (including without limitation any instruction concerning the management of *Sales*' or its *gas* customers' *gas* demand and any instruction directed to preservation or restoration of *capacity* of the *AlintaGas GDS*) given to it by *Networks* during, and related to, an *emergency*, and *Sales* is liable to *Networks* for any injury, death, loss or damage suffered by reason of *Sales*' failure to comply with such an instruction.

Allocation

38. (1) Where *gas* is delivered to a *delivery point* identified in the *register* for one or more *users* in addition to *Sales*, *Sales* must agree with that *user* or those *users* allocation methodologies and notification processes reasonably acceptable to *Networks*, for allocating *gas* deliveries, interruptions and curtailments between different *users*.
- (2) If no methodologies or processes are established in accordance with subclause 38(1), *Networks* may adopt a reasonable methodology or process or both such as pro-rating based on *contracted peak rate*.

Division 8 – Liability of Parties

Force majeure

39. (1) Subject to subclause 39(2) a party is excused from performance of, and is not liable for any failure in carrying out, any of its obligations under this *haulage contract* if it is prevented from doing so by *force majeure*.
- (2) Subject to subclause 39(3), the occurrence of *force majeure* does not relieve *Sales* of the obligation to pay any charge or charges which are specified by the *Code*, the *Access Arrangement* or this *haulage contract* to be payable despite the operation on *Sales* of *force majeure*.
- (3) To the extent that *Networks* fails to provide the haulage *service* and claims the benefit of *force majeure* in respect of that failure, *Sales* is excused from the obligation to pay the *reference tariffs* (including any standing charge or demand charge).
- (4) The inability to pay money, however caused, does not constitute *force majeure*.

- (5) If a party claims the benefit of *force majeure*, it must:
- (a) promptly give written notice to the other party of the occurrence and circumstances in which the claim arises;
 - (b) use its best endeavours to remedy the consequences without delay; and
 - (c) resume full performance of its obligations under this *haulage contract* as soon as reasonably practicable.
- (6) 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 this clause and the party may refrain from settling industrial disturbances or may settle them on any terms it considers to be in its best interests.
- (7) If at any time during the duration of this *haulage contract* a party is validly claiming, and has for a consecutive period of at least one *year* validly claimed, the benefit under this clause of *force majeure* in respect of a failure by the party to substantially comply with its obligations under this *haulage contract* then either party may in its sole discretion by written notice to the other party terminate this *haulage contract*.

Liability for negligence and default limited to direct damage

40. (1) If a party:
- (a) is negligent in any matter relating to or arising out of this *haulage contract*; or
 - (b) defaults in respect of its obligations to the other party under this *haulage contract*, then (subject to subclause 40(2)) the party,
- then the party is liable to the other party (including its directors, servants, consultants, independent contractors and agents) for, and indemnifies the other party (including its directors, servants, consultants, independent contractors and agents) against, any *direct damage* to the other party caused by or arising out of the negligence or default.
- (2) *Networks* is not liable to *Sales* for *direct damage* or *indirect damage* caused by or arising out of any curtailment of *gas* deliveries to *Sales*, or any non-delivery of *gas* into the *AlintaGas GDS*, where that curtailment or non-delivery is undertaken under the *Code*, the *Access Arrangement* or this *haulage contract*.

Liability for fraud

41. A party who is fraudulent in respect of its obligations to the other party under this *haulage contract* is liable to the other party for, and indemnifies the other party against, any *direct damage* or *indirect damage* caused by or arising out of the fraud.

No liability for indirect damage

42. Except as provided in clause 41, neither party is in any circumstances to be liable to the other party for any *indirect damage*, whether arising under a *law*, or in contract, tort or equity, or otherwise.

No liability arising out of any approval by Networks

43. Without limiting the generality of clause 42, *Networks* is not, except as provided in clauses 40 and 41, in any circumstances liable to *Sales* for any injury, death, loss or damage (including *indirect damage*), caused by or arising out of any approval by *Networks* 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 *AlintaGas GDS*.

Saving of contractual payments

44. Nothing in this Division limits the liability of either party to make all payments under this *haulage contract*.

Each limitation separate

45. Each limitation or exclusion created by this Division and each protection given to *Networks* or *Sales* or to their respective directors, servants, consultants, independent contractors and agents by this Division is a separate limitation, exclusion or protection applying and surviving even if for any reason any provision of this Division is held inapplicable in any circumstances.

Division 9 – Default and Termination

Default by a party

46. A party is in default under this *haulage contract*, in any one or more of the following circumstances:
- (a) if the party makes default in the due and punctual payment, at the time and in the manner prescribed for payment by this *haulage contract*, of any amount payable under this *haulage contract*;
 - (b) if a party makes default in the due and punctual performance or observance of any of the other covenants, agreements, conditions or other obligations contained, or implied by the operation of *law*, in this *haulage contract*;
 - (c) if a receiver, receiver and manager, administrator, or controller is appointed over a party or if a petition or application is presented (and not withdrawn within 10 *business days*), or an order is made or a resolution is passed for the winding up or dissolution without winding up of the party otherwise than for the purpose of reconstruction or amalgamation under a scheme to which the other party has given consent;
 - (d) if there is any adverse change in the business or financial condition of the party or an event occurs which could, in the reasonable opinion of the other party, materially affect the party's ability to meet its obligations to the other party under this *haulage contract*;
 - (e) if the party is found to be materially in breach of any warranty given to the other party whether in this *haulage contract*, an *application*, or any instrument relating to this *haulage contract* or an *application*, or if any statement or representation made by the party in any instrument described above, is found to be false or misleading in any material particular;
 - (f) if the party is in default under any other haulage contract between the parties; or
 - (g) in any other circumstance specified in this *haulage contract*.

Restructuring or sale of Networks not a default

47. (1) The restructuring or sale of *Networks* is not a default for the purposes of clause 46 if it is conducted as part of, in preparation for or otherwise to facilitate:
- (a) the full or partial privatisation of *Networks*, whether by way of sale, float, sale of assets, or some other means or combination of means; or
 - (b) the establishment of ringfencing procedures specified in or under section 4 of the *Code* (which for the purposes of this clause is to be read as though section 94 of the *Act* had not been enacted).

- (2) The term “restructuring” in subclause 47(1) includes the division of *Networks* into two or more separate legal entities, and the assignment, sale or other transfer of all or part of *Networks’* business or assets to one or more subsidiaries or related corporations of *Networks*.

Notice of default

48. If a party is in default under this *haulage contract*, then the other party may give written notice to the defaulting party specifying the default.

When a party may exercise remedy

49. A party cannot terminate this *haulage contract* under clause 51:
- (a) for a default under paragraph 46(a) unless it is given a written notice under clause 48 of that default, and the default has not been remedied within 5 *business days* after the other party receives that written notice; and
 - (b) for any other default under clause 46, unless it is given a written notice under clause 48 of that default, and the default has not been remedied within 15 *business days* after the other party receives that written notice.

Curtailment for Sales’ default

50. If *Sales* is in default under this *haulage contract*, then *Networks* may in its sole discretion wholly or partly curtail *gas* deliveries to *Sales* at a *delivery point* or reduce or suspend any other *service* to *Sales* until such time as all defaults have been remedied.

Termination

51. Subject to clause 49, if a party is in default under this *haulage contract*, then the other party may in its sole discretion by written notice to the defaulting party terminate this *haulage contract*.

Saving of Networks’ other remedies

52. A party’s rights under clause 51 and *Networks’* rights under clause 50 are in addition to any other rights and remedies available to the party, whether under any *law*, the *Code*, the *Access Arrangement*, this *haulage contract* or in contract, tort, equity or otherwise.

Effect of termination

53. (1) Termination of this *haulage contract*:
- (a) does not prejudice the rights or remedies accrued to either party at the date of termination; and
 - (b) subject to subclause 53(2), relieves each party of all further obligations under this *haulage contract* to the other parties.
- (2) Termination of this *haulage contract* by a party does not relieve the other party of its obligations:
- (a) to pay all amounts outstanding at the time of termination; and
 - (b) to pay all amounts which would have become payable under this *haulage contract* but for its termination.

Division 10 – Dispute Resolution

Parties to attempt to resolve

54. (1) If any dispute arises between the parties, either party may give written notice to the other party specifying the details of the dispute.
- (2) If the dispute remains unresolved for a period of 30 days after the date on which the written notice was given under subclause 54(1), authorised officers of the parties are to meet within 5 *business days* after the end of that 30 day period and use their best endeavours to resolve the dispute.

Disposition of unresolved disputes

55. If the dispute remains unresolved for a further 15 *business days* after the end of the 30 day period referred to in subclause 54(2), then:
- (a) if the dispute is of a kind that the *Arbitrator* may hear and determine, then the dispute must be heard in accordance with section 6 of the *Code*, or in such other manner as is prescribed by regulation; or
- (b) if the dispute is not of a kind that the *Arbitrator* may hear and determine, then the dispute must be referred to arbitration under clause 56.

Arbitration

56. (1) Where under paragraph 55(b) the parties must refer a dispute to arbitration, either party may give written notice to the other party specifying with reasonable particularity the matter in dispute, and the dispute is by that written notice by force of this clause referred to arbitration of a single arbitrator under this clause.
- (2) If the parties cannot agree on a person to be arbitrator, either party may request the President for the time being of the Law Society of Western Australia to nominate a person to be arbitrator.
- (3) In any arbitration:
- (a) the proceedings are to be conducted generally under the Commercial Arbitration Act 1985 as modified by this *haulage contract*;
- (b) a party may be represented by a legal practitioner; and
- (c) the proceedings are to be conducted in Perth.
- (4) In conducting proceedings, the arbitrator is not to be bound by the rules of evidence.
- (5) The arbitrator must not order any of the parties to take any steps to achieve a settlement of the dispute being arbitrated.
- (6) A party to the arbitration proceedings may:
- (a) apply to a Judge (or acting Judge or auxiliary Judge) of the Supreme Court of Western Australia for the determination of any question of law that may arise in the course of the arbitration; or
- (b) appeal to a Judge (or acting Judge or auxiliary Judge) of the Supreme Court of Western Australia on any question of law arising out of an award by an arbitrator.

- (7) The arbitrator may:
- (a) 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;
 - (b) award such interest as he or she considers appropriate;
 - (c) if a party has overpaid another, whether under a mistake of law or fact, order repayment of the sum overpaid together with interest; and
 - (d) rectify any term of this *haulage contract*, so as to conform to the true intention of the parties, but any rectification must comply with the *Code*, the *Access Arrangement* and the principles of the general law applicable to the rectification of contracts.
- (8) If the arbitrator retains a person under paragraph 56(7)(a):
- (a) 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;
 - (b) the arbitrator, in making an award, may adopt the opinion of that person, after first disclosing the opinion to the parties and receiving the parties' submissions thereon;
 - (c) 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
 - (d) 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.

Dispute not a default

57. Any dispute in good faith being dealt with under this Division or under the *Code* does not constitute a default for the purposes of clause 46.

Division 11 – Miscellaneous Contractual Matters

Making good damage caused in the course of installing delivery facilities

58. (1) Except as provided in this clause, *Networks* is not liable to pay compensation for or in respect of, or make good any damage done to the land or premises of *Sales* or *Sales' gas* customer by *Networks*, its officers, servants, or agents in the reasonable course of installing the *user specific delivery facilities* or the *standard delivery facilities* whether that damage is of a temporary character or a permanent character.
- (2) If, in the course of installing *user specific delivery facilities* or *standard delivery facilities*, *Networks* opens or breaks up any sealed or paved surface, or damages or disturbs any lawn, landscaping or other improvement, then *Networks* must if necessary fill in any ground to restore it to approximately its previous level.
- (3) *Networks* is liable to reinstate or make good, or pay compensation in respect of, any sealed or paved surface opened or broken up, or any lawn, landscaping or other improvement damaged or disturbed, in the course of installing the *user specific delivery facilities* or the *standard delivery facilities* to the land or premises of *Sales* or *Sales' gas* customer, if and to the extent that *Networks* fails to act reasonably having regard to the safe and efficient operation of the *AlintaGas GDS* and prudent *pipeline* practices generally accepted in the natural *gas* haulage industry.

- (4) If *Sales* is required to compensate *Sales' gas* customer for any damage done in circumstances where *Networks* would be liable in respect of such damage under subclause 58(3) then *Networks* must indemnify *Sales* to the extent of the lesser of:
- (a) the value of the compensation *Sales' gas* customer receives from *Sales*; and
 - (b) the value of compensation which would be payable by *Networks* to *Sales* under subclause 58(3), if the damage had been suffered wholly by *Sales* instead of *Sales' gas* customer.
- (5) Except to the extent that *Networks* is liable to *Sales* or *Sales' gas* customer under subclause 58(3), *Sales* must indemnify *Networks* against all claims brought by *Sales* or *Sales' gas* customer in respect of any damage done to the land or premises of *Sales* or *Sales' gas* customer by *Networks*, its officers, servants, or agents in the reasonable course of installing the *user specific delivery facilities* or the *standard delivery facilities* whether that damage is of a temporary character or a permanent character.
- (6) An obligation to indemnify which arises under subclauses 58(4) or 58(5) is discharged by payment in full by the indemnifying party to the indemnified party (or to such person as the indemnified party nominates) within 30 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.

No assignment by Sales except as provided for in Trading Policy

59. *Sales* may not assign any right, interest or obligation under this *haulage contract* except in accordance with the *Trading Policy*, as set out in Chapter 5 of the *Access Arrangement*.

Assignment by Networks

60. (1) *Networks* may not assign any right, interest or obligation under this *haulage contract* except in accordance with this clause.
- (2) *Networks* may, with the prior written consent of *Sales*, transfer or assign all or part of its rights and obligations under this *haulage contract* in respect of all or any *delivery points*.
- (3) *Sales* may:
- (a) withhold its consent to a transfer or assignment under this clause only on reasonable commercial or technical grounds; or
 - (b) give its consent to a transfer or assignment under this clause subject to conditions only if they are reasonable on commercial or technical grounds.

Sales' representations and warranties

61. (1) Subject to subclause 61(2), *Sales*, by making an *application* and by entering into this *haulage contract* represents and warrants to *Networks* that:
- (a) it will comply with all applicable *laws* with respect to any of its obligations connected with, arising out of or in relation to the *Access Arrangement* or this *haulage contract*;
 - (b) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all *laws* to enter into this *haulage contract*, to observe its obligations under the *Access Arrangement* and this *haulage contract*, and to allow those obligations to be enforced;
 - (c) its obligations under this *haulage contract* are valid and binding and are enforceable against it;

- (d) this *haulage contract* and any transaction under it does not contravene *Sales'* 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;
 - (e) its obligations to make payments under this *haulage contract* rank at least equally with all unsecured and unsubordinated indebtedness of *Sales* except debts mandatorily preferred by *law*;
 - (f) neither *Sales* nor any of its related bodies corporate (which term in this clause has the meaning given it by the Corporations Law) is in default under a *law* affecting any of them or their respective assets, or any obligation or undertaking by which them or any of their assets are bound, which default will, or might reasonably be expected to, materially affect its ability to perform its obligations under this *haulage contract*;
 - (g) there is no pending or threatened action or proceeding affecting *Sales* 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 its ability to perform its obligations under this *haulage contract*;
 - (h) neither *Sales* nor any of its related bodies corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise); and
 - (i) *Sales* is not an agent or trustee (except if and to the extent that it is disclosed as such in the *application* which first gave rise to this *haulage contract*) in relation to this *haulage contract* or the *gas* to be delivered or received under this *haulage contract*.
- (2) The representations and warranties in subclause 61(1) are made on and from the date this *haulage contract* starts, and are made anew on each day thereafter for the duration of this *haulage contract*.

Networks' representations and warranties

62. (1) Subject to subclause 62(2), *Networks* represents and warrants to *Sales* that:
- (a) it will comply with all applicable *laws* with respect to any of its obligations connected with, arising out of or in relation to the *Access Arrangement* or this *haulage contract*;
 - (b) it has in full force and effect all authorisations, licences, permits, consents, certificates, authorities and approvals necessary under all *laws* to enter into this *haulage contract*, to observe its obligations under the *Access Arrangement* and this *haulage contract*, and to allow those obligations to be enforced;
 - (c) it has in full force and effect all materially necessary leases, licences and easements to construct, operate and maintain the *delivery points* and all other facilities for which it is responsible under the *Access Arrangement* and this *haulage contract*;
 - (d) its obligations under this *haulage contract* are valid and binding and are enforceable against it;
 - (e) this *haulage contract* and any transaction under it does not contravene *Networks'* constituent documents or any *law* or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;
 - (f) neither *Networks* nor any of its related bodies corporate (which term in this clause has the meaning given it by the Corporations Law) is in default under a *law* affecting any of them or their respective assets, or any obligation or undertaking by which

them or any of their assets are bound, which default will, or might reasonably be expected to, materially affect its ability to perform its obligations under this *haulage contract*;

- (g) there is no pending or threatened action or proceeding affecting *Networks* 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 its ability to perform its obligations under this *haulage contract*;
 - (h) neither *Networks* nor any of its related bodies corporate have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
 - (i) *Networks* is not an agent or trustee (except if and to the extent that it has disclosed such agency or trust to *Sales* prior to *Sales* entering into this *haulage contract*) in relation to this *haulage contract* or the *gas* to be delivered or received under this *haulage contract*; and
 - (j) it controls the *AlintaGas GDS*.
- (2) The representations and warranties in subclause 62(1) are made on and from the date this *haulage contract* starts, and are made anew on each day thereafter for the duration of this *haulage contract*.

Insurances

63. (1) *Sales* must procure and maintain liability insurance with insurers for such amount as *Networks* may require and *Sales* must arrange for endorsement on the policy of the interests of *Networks*.
- (2) *Networks* may from time to time require *Sales* to provide evidence of the matters in subclause 63(1).

Notices and addresses for notices

64. (1) Where under the *Access Arrangement* or this *haulage contract* a notice is required or permitted to be communicated to a party, the notice is by force of this clause to be taken to have been communicated if it is in writing and it is delivered personally to, or sent by certified mail addressed to, the party at the address, or is sent by facsimile transmission to the facsimile number, last notified under this clause.
- (2) Pending further notice under subclause 64(4), *Networks*' address and facsimile number is:
- 7 Harvey Street
Victoria Park WA 6100
Facsimile Number: 9486 2707
- (3) Pending further notice under subclause 64(4), *Sales*' address and facsimile number is:
- Level 7
The Quadrant
1 William Street
Perth WA 6000
Facsimile Number: 9486 3204
- (4) From time to time, for the purposes of this clause, either party may advise the other party in writing of an address located within the State and a facsimile number which are to take effect in substitution for the details set out in this clause.

- (5) Nothing in this clause prevents the parties from agreeing in writing to use an alternative means of communication of notices.
- (6) A reference in the *Access Arrangement* or this *haulage contract* to notice before a certain time means that the notice must be received at the intended address or facsimile machine by no later than that time.
- (7) For the purposes of the *Access Arrangement* or this *haulage contract*, any notice sent by facsimile machine is by force of this clause to be taken to have been sent and received on the date and at the time printed on a transmission report produced by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the appropriate facsimile number, unless the recipient notifies the sender within 12 hours of the facsimile being sent that the facsimile was not received in its entirety in legible form.
- (8) For the purposes of the *Access Arrangement* or this *haulage contract*, a notice sent by certified mail is by force of this clause to be taken to be received on the earlier of the date of receipt or on the second working day after the notice was committed to post.

Confidentiality

65. (1) A party must not disclose *confidential information* except:
- (a) with the prior written consent of the other party;
 - (b) if the information is obtainable with reasonable diligence from sources other than the parties, or which enters the public domain other than by breach of this clause;
 - (c) when required under any *law*;
 - (d) to any consultant or adviser to the party or, subject to section 4 of the *Code*, to any “Associate” as defined in section 10.8 of the *Code*;
 - (e) when, in the reasonable opinion of *Networks*, the information is required to be disclosed in the course of any restructuring or sale of *Networks* contemplated in clause 47;
 - (f) 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; or
 - (g) when the information may be disclosed under subclause 8(7).
- (2) In the case of a permitted disclosure under subclause 65(1), the disclosing party must use reasonable endeavours to make disclosure on terms which preserve as far as practicable the confidentiality of the information.
- (3) In the case of a disclosure to which paragraph 65(1)(c) applies, the disclosing party must use reasonable endeavours to:
- (a) give advance notice to the other party of the impending disclosure;
 - (b) oppose or restrict such disclosure, or make such disclosure on terms which preserve as far as practicable the confidentiality of the information; and
 - (c) take such steps as will permit the other party to have a reasonable opportunity to oppose or restrict such disclosure by lawful means.
- (4) The definition of “**Confidential Information**” in section 10.8 of the *Code* does not apply to this clause.

{Note: Information to which this clause relates may also come within the definition of “**Confidential Information**” in section 10.8 of the *Code*.}

General terms and conditions

66. (1) **Waiver and delay**

No waiver by any party of any default or defaults by any other party in the performance of any of the provisions of this *haulage contract* operates or is to be construed as a waiver of any other or further default, whether of the same or a different character. No delay by any party in enforcing any remedy for any default under this *haulage contract* constitutes a waiver of that or any other or further default.

(2) **Applicable Law**

This *haulage contract* is governed by the *law* of the State of Western Australia and the parties irrevocably submit themselves to the jurisdiction of the courts of that State.

(3) **Entire Agreement**

This *haulage contract* constitutes the full agreement between the parties and supersedes all prior negotiations, representations, proposals and agreements whether oral or written with respect to the subject matter of this *haulage contract*.

(4) **Amendment**

No purported modification, variation or amendment of this *haulage contract* is of any force or effect unless it is in writing and executed by all parties or, in the case of a waiver, by the party whose rights are waived.

(5) **Stamp duty and costs of this contract**

Sales is responsible for any stamp duty which may be assessable or payable on this *haulage contract*. Each party must bear their own legal and other costs of the preparation of this *haulage contract*.

(6) **Severance**

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

Division 12 – Interpretation

Interpretation

67. (1) In this *haulage contract* (unless such an interpretation is excluded by or contrary to the context) the following terms have the following meanings:

“Access Arrangement” means “AlintaGas’s Access Arrangement for the Mid-West and South-West Gas Distribution Systems” as at the date of this *haulage contract*;

“Access Arrangement period” means the date on which the *Access Arrangement* commenced to the date on which revisions to the *Access Arrangement* submitted by *Networks* to the *Regulator* under the *Code* commence;

{Note: The *Access Arrangement* commenced on 18 July 2000}

“Act” means the *Gas Pipelines Access (Western Australia) Act 1998 (WA)*;

“**AlintaGas GDS**” means those *pipelines* owned and operated by *Networks* comprising:

- (a) the *high pressure system*; and
- (b) the *medium pressure/low pressure systems*;

“**application**” means an application by *Sales* for access to a *service* in accordance with the *Applications Procedure* which gave rise to this *haulage contract* or to an amendment to the *register* under subclause 7(1);

“**Applications Procedure**” means the process by which *Sales* must submit an *application*, which is set out as part of the Information Package described in section 5.1 of the *Code*;

“**Arbitrator**” means the Western Australian Gas Disputes Arbitrator appointed under the *Gas Pipelines Access (Western Australia) Act 1998*;

“**business day**” means a day that is not:

- (a) a Saturday or Sunday; or
- (b) a public holiday, special holiday or bank holiday in the place in which any relevant act is to be or may be done;

“**capacity**” means the measure of the potential of the *AlintaGas GDS* as currently configured to deliver a particular *service* between a *receipt point* and a *delivery point* at a point in time;

“**Code**” means the National Third Party Access Code for Natural Gas Pipeline Systems applying as a *law* of Western Australia by virtue of Section 9 of the *Act* as in force at the date of this *haulage contract*;

“**commencement date**” means the date that this *Haulage Contract* is executed;

“**confidential information**” means:

- (a) the contents of this *haulage contract*; and
- (b) any information provided to the receiving party by the disclosing party during the course of negotiations for, or during the duration of, this *haulage contract*, which:
 - (i) relates specifically to the affairs of a person; and
 - (ii) is claimed by the disclosing party to be confidential,

where the disclosure of that information would or might seriously and prejudicially affect the interests of the person,

but excludes information referred to in subclause 8(7);

“**contracted peak rate**” for a *delivery point* means the rate determined under clause 9 as the highest *instantaneous flow rate* through the *delivery point* at which *Networks* can be required to deliver *gas* and at which *Sales* may take delivery of *gas*;

“**contracted service**” has the meaning given in subclause 27(2);

“**current Access Arrangement period**” has the meaning given in subclause 27(1);

“**DBNGP**” means the Dampier to Bunbury Natural Gas Pipeline;

“**delivery point**” means a flange, joint or other point at which *Sales* is entitled to take delivery of *gas* under clause 2;

“designated supplier” means the person notified to *Networks* by *Sales* from time to time under clause 67 of the *Access Arrangement*, in respect of this *haulage contract*;

“direct damage”:

- (a) in relation to any person, means loss or damage which is not *indirect damage*; and
- (b) in relation to *Networks* only, means in addition any liability of *Networks* to any *user*, and any claim, demand, action and proceeding brought against *Networks* by any *user*, and any of *Networks*' costs or expenses in connection with the claim, demand, action or proceeding;

“emergency” means:

- (a) any extreme operating situation; or
- (b) any other situation (however caused) which, in *Networks*' 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, in respect of a *delivery point*, the date on which *Sales*' entitlement to take delivery of *gas* ends, as determined in accordance with subclause 3(5).

“end user” means a person who acquires or proposes to acquire *gas* from *Sales* at a *delivery point*;

“equivalent reference service” has the meaning given in subclause 27(2);

“extension or expansion” includes a new *pipeline*, and any extension to, or expansion of the *capacity* of, all or part of an existing *pipeline*;

“force majeure” means any event or circumstance 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, including each of the following events or circumstances (provided they are not within a party's control and the party, by applying the standard of a reasonable and prudent person, is not able to prevent or overcome them):

- (a) acts of God, epidemics, landslides, lightning, earthquake, fires, storms, floods, wash-outs and cyclones;
- (b) strikes, lockouts, stoppages, restraints of labour and other industrial disturbances;
- (c) acts of the enemy, wars, blockades or insurrections;
- (d) riots and civil disturbances;
- (e) valid *laws*;
- (f) shortage of necessary equipment, materials or labour;
- (g) refusal or delay in obtaining any necessary consent or approval from any Commonwealth or local government or any Commonwealth or State statutory authority (including, whether or not the party claiming the benefit of *force majeure* is *Sales* or *Networks*);
- (h) unavoidable accidents involving, or breakdown of or loss or damage to, any plant, equipment, materials or facilities necessary for the parties' operations;
- (i) any *pipeline* shutdown, curtailment or interruption which is validly required or directed under any *law*;

- (j) any *pipeline* shutdown, curtailment or interruption required to conform with design or regulatory limits on *pipeline* facilities, whether arising due to environmental conditions or circumstances or otherwise;
- (k) *pipeline* ruptures; and
- (l) collisions or accidents;

“gas” means a substance:

- (a) which is in a gaseous state at standard temperature and pressure and which consists of naturally occurring hydrocarbons, or a naturally occurring mixture of hydrocarbons and non-hydrocarbons, the principal constituent of which is methane; and
- (b) which has been processed to be suitable for consumption.

“gas hour” means a period of 60 minutes, commencing and ending on the hour;

“haulage contract” means this agreement between *Networks* and *Sales* under which *Networks* agrees to provide *Service A*, *Service B1*, *Service B2* and *Service B3* on the terms and conditions set out in this agreement;

“high pressure system”:

- (a) means those *pipelines* owned and operated by *Networks* operating at a nominal pressure of 300 kPa or more which fall within one or more of the following 4 categories:
 - (i) *pipelines* depicted as “High Pressure Gas Main” or “Fremantle High Pressure Main” in the maps set out in Schedule 1 to the *Access Arrangement*;
 - (ii) *pipelines* (not depicted in the maps set out in Schedule 1 to the *Access Arrangement*) which first became *operational* before the *commencement date*;
 - (iii) any expansion to the *high pressure system* which is required to be installed under section 6.22 of the *Code*; and
 - (iv) *pipelines* which become or have become part of the *high pressure system* under the Extensions/Expansions Policy in the *Access Arrangement*;and
- (b) excludes all high pressure regulators which reduce the pressure from those parts of the *AlintaGas GDS* which operate at a nominal pressure of 300 kPa or more to those parts of the *AlintaGas GDS* which operate at a nominal pressure of less than 300 kPa;

“inaccurate” has the meaning given to that term by clause 20(3);

“indirect damage” suffered by a person means:

- (a) any consequential loss or damage however caused, including without limitation any:
 - (i) loss of (or loss of anticipated) use, production, revenue, income, profits, business and savings; or
 - (ii) business interruption,

whether or not the consequential loss or damage was foreseeable; and

- (b) any liability of the person to any other person, or any claim, demand, action or proceeding brought against the person by any other person, and any costs or expenses in connection with the claim, demand, action or proceeding,

but in relation to *Networks* does not mean loss or damage referred to in paragraph (b) of the definition of “*direct damage*” in this clause;

“**instantaneous flow rate**” at a *delivery point* means a flow rate measured over the shortest period of time over which the *meter* is capable of measuring a flow rate;

“**interconnected pipeline**” means a transmission *pipeline*, distribution *pipeline* or *gas storage* system from which *gas* is supplied into the *AlintaGas GDS*;

“**interconnection contract**” means an agreement between *Networks* and the owner or operator of an *interconnected pipeline*, under which *Networks* agrees to provide an *interconnection service*;

“**interconnection distance**” means, in respect of a *delivery point*, a distance measured along the straight line which represents the shortest distance between the *delivery point* and the nearest *pipeline* or storage system from which *gas* is (or would be if an *interconnection contract* were entered into and necessary *physical gate points* and associated facilities were constructed) supplied into the *AlintaGas GDS*;

“**interruptible capacity**” has the meaning given in sub-clause 28(1);

“**invoicing period**” means a calendar month;

“**interconnection service**” means a *service* in respect of the interconnection between a *sub-network* and a *pipeline* which is, or is to become, an *interconnected pipeline*;

“**law**” includes any Act of the Commonwealth or a State, and any instrument made directly or indirectly under any such Act and having legislative effect, including any proclamation, regulation, rule, ruling, local law, by-law, order, notice, rule of court, town planning scheme or resolution or the listing rules of any relevant recognised Stock Exchange;

“**medium pressure/low pressure system**”:

- (a) means those *pipelines* owned and operated by *Networks* operating at a *nominal pressure* of less than 300 kPa which fall within one or more of the following 4 categories:

- (i) *pipelines* in the geographical areas depicted as a shaded area identified as “Natural Gas Reticulation System” in the maps set out in Schedule 1 to the *Access Arrangement*;
- (ii) *pipelines* (not depicted in the maps set out in Schedule 1 to the *Access Arrangement*) which first became *operational* before the *commencement date*;
- (iii) any expansion to the *medium pressure/low pressure system* which is required to be installed under section 6.22 of the *Code*; and
- (iv) *pipelines* which become or have become part of the *medium pressure/low pressure system* under the Extensions/Expansions Policy in the *Access Arrangement*;

and

- (b) includes all high pressure regulators owned and operated by *Networks* which reduce the pressure from those parts of the *AlintaGas GDS* which operate at a *nominal pressure* of 300 kPa or more to those parts of the *AlintaGas GDS* which operate at a *nominal pressure* of less than 300 kPa;

“Memorandum of Understanding” means the document entitled “Memorandum of Understanding for the Trading Business’ Entitlement to Take Delivery of Gas from the Gas Distribution System” expressed to be made between the Gas Corporation in its capacity as the distribution business and the Gas Corporation in its capacity as the trading business pursuant to Regulation 104 of the Gas Distribution Regulations 1996 and dated 31 December 1996 and any variation to it entered into prior to its termination under clause 5;

“meter” means all equipment, and any ancillary equipment, used to measure the flow of *gas* taken from the *AlintaGas GDS* at a *delivery point*;

“Networks” means AlintaGas Networks Pty Ltd (ACN 089 531 975) of Level 7, The Quadrant, 1 William Street, Perth, Western Australia;

“new Access Arrangement period” has the meaning given in subclause 27(2);

“nominal pressure” means, in respect of a *delivery point*, the pressure determined as the nominal pressure for that *delivery point* under sub-clause 13(2), 13(3) or 13(4);

“operational” means in working order and ready for use to the extent intended with all testing, commissioning and other checking completed to *Networks’* satisfaction;

“physical gate point” means a flange, joint or other point which marks the physical boundary between the *AlintaGas GDS* and an *interconnected pipeline*;

“pipeline” means a pipe, or system of pipes, or part of a pipe, or system of pipes, for transporting *gas*, and any tanks, reservoirs, machinery or equipment directly attached to the pipe, or system of pipes, but does not include:

- (a) unless paragraph (b) applies, anything upstream of a prescribed exit flange on a pipeline conveying *gas* from a prescribed *gas* processing plant;
- (b) if a connection point upstream of an exit flange on such a pipeline is prescribed, anything upstream of that point;
- (c) a gathering system operated as part of an upstream producing operation;
- (d) any tanks, reservoirs, machinery or equipment used to remove or add components to or change *gas* (other than odourisation facilities) such as a *gas* processing plant; or
- (e) anything downstream of the connection point to a consumer.

“prescribed interest rate” in respect of a day from which interest is to be payable, means an annual interest rate which is 3 percentage points higher than the bank bill rate, where the bank bill rate is:

- (a) the quoted rate for Bank Bill Reference Rate (Mid-Rate) on Telerate page 39373 at or about a 10:00 hours (Sydney time) on that day as being the rate for a one month bill; or
- (b) if the bank bill rate cannot be determined by the procedure in paragraph (a) of this definition, a reasonable rate determined by *Networks* having regard to comparable indices then available;

“receipt point” means, in respect of a *sub-network*, a point which is designated as a receipt point for that *sub-network* in the Schedule prepared by *Networks* under clause 66(2) of the *Access Arrangement*;

“reference service” means any one of *Reference Service A*, *Reference Service B1*, *Reference Service B2* and *Reference Service B3* and **“reference services”** means any two or more of them;

“Reference Service A” means the *service* described in clause 5 of the *Access Arrangement*;

“**Reference Service B1**” means the *service* described in clause 6 of the *Access Arrangement*;

“**Reference Service B2**” means the *service* described in clause 7 of the *Access Arrangement*;

“**Reference Service B3**” means the *service* described in clause 8 of the *Access Arrangement*;

“**reference tariff**” means any one of *Reference Tariff A*, *Reference Tariff B1*, *Reference Tariff B2* and *Reference Tariff B3* and “**reference tariffs**” means any two or more of them;

“**Reference Tariff A**” means the *reference tariff* described in clause 21, and clause 7 of Schedule 4 of the *Access Arrangement*, as amended from time to time in accordance with the terms of the *Access Arrangement*;

“**Reference Tariff B1**” means the *reference tariff* described in clause 22 of the *Access Arrangement*, as amended from time to time in accordance with the terms of the *Access Arrangement*;

“**Reference Tariff B2**” means the *reference tariff* described in clause 23 of the *Access Arrangement*, as amended from time to time in accordance with the terms of the *Access Arrangement*;

“**Reference Tariff B3**” means the *reference tariff* described in clause 24 of the *Access Arrangement*, as amended from time to time in accordance with the terms of the *Access Arrangement*;

“**register**” means the register of *delivery points* which *Networks* must establish and maintain under clause 6, as amended from time to time under clause 7(3) ;

“**Regulator**” means the person holding or acting in the office of the Western Australian Independent Gas Pipelines Access Regulator;

“**revised Access Arrangement**” has the meaning given in subclause 27(2);

“**Sales**” means AlintaGas Sales Pty Ltd (ACN 089 531 984) of Level 7, The Quadrant, 1 William Street, Perth, Western Australia;

“**service**” has the meaning given to “**Service**” in section 10.8 of the *Code*;

“**Service A**” means the *service* under this *haulage contract* which derives from *Reference Service A*;

“**Service B1**” means the *service* under this *haulage contract* which derives from *Reference Service B1*;

“**Service B2**” means the *service* under this *haulage contract* which derives from *Reference Service B2*;

“**Service B3**” means the *service* under this *haulage contract* which derives from *Reference Service B3*;

“**service provider**” in relation to a *pipeline* or proposed *pipeline*, means the person who is, or is to be, the owner or operator of the whole or any part of the *pipeline* or proposed *pipeline*;

{Note: *Networks* is the *service provider* for the *AlintaGas GDS*.}

“**standard delivery facilities**” includes:

- (a) either:
 - (i) in the case of *Service B2*, a *standard 12 m³/hr meter*; or
 - (ii) in the case of *Service B3*, a *standard 6 m³/hr meter*;

- (b) up to 20 metres of *service pipe*;
- (c) a *standard pressure regulator*, sized to suit the applicable *meter*; and
- (d) any ancillary pipes and equipment,

being the standard facility or facilities adopted for the purposes of this definition as specified from time to time by *Networks*.

“**standard 6 m³/hr meter**” means a standard *meter* with a maximum delivery capability of less than or equal to 6 cubic metres of *gas* per hour, being the standard facility or facilities adopted for the purposes of this definition as specified from time to time by *Networks*.

“**standard 12 m³/hr meter**” means a standard *meter* with a maximum delivery capability of more than 6 cubic metres of *gas* per hour and less than or equal to 12 cubic metres of *gas* per hour, being the standard facility or facilities adopted for the purposes of this definition as specified from time to time by *Networks*.

“**standard pressure regulator**” means a pressure regulator or pressure regulators provided by *Networks* as part of *Service B2* and *Service B3* which are the standard facilities adopted for the purposes of this definition as specified from time to time by *Networks*;

“**start date**” means, in respect of a *delivery point*, the date on which *Sales* becomes entitled to take delivery of *gas* at that *delivery point*, as determined in accordance with subclause 3(3);

“**sub-network**” means part of the *AlintaGas GDS* which is identified by *Networks* as a sub-network in the most recent Schedule prepared by *Network* under subclause 66(2) of the *Access Arrangement*;

“**tax**” includes any tax, rate, impost, levy, duty, fee, compulsory loan, tax-equivalent payment or surcharge withheld, deducted, charged, levied or imposed under any *law*;

“**tariff**”, for any of *Service A*, *Service B1*, *Service B2* or *Service B3*, means the criteria that, when applied to *Sales*’ characteristics and requirements at a *delivery point*, determine the charge that is payable by *Sales* to *Networks* in respect of that *delivery point*;

“**Tariff A**”, for a *delivery point* to which *Service A* applies, means the *tariff* determined for the *delivery point* under clause 15(1);

“**Tariff B1**”, for a *delivery point* to which *Service B1* applies, means the *tariff* determined for the *delivery point* under clause 15(2);

“**Tariff B2**”, for a *delivery point* to which *Service B2* applies, means the *tariff* determined for the *delivery point* under clause 15(3);

“**Tariff B3**”, for a *delivery point* to which *Service B3* applies, means the *tariff* determined for the *delivery point* under clause 15(4);

“**Trading Policy**” means the Trading Policy set out in Chapter 5 of the *Access Arrangement*;

“**user**” means a contestable customer (as defined in subsection 91(1) of the *Act*) who has a current service *agreement* or an entitlement to a *service* as a result of an arbitration;

{Note: *Sales* is a *user*.}

“**user specific delivery facilities**” means in respect of a *delivery point* the facilities specified as such in the *register* for that *delivery point*; and

“**year**” means a period of 12 months.

- (2) Headings to Divisions are part of this *haulage contract*. Headings to clauses and entries in the table of contents are not part of this *haulage contract*.

- (3) Except where otherwise indicated, a reference in this *haulage contract* to a Division, clause, subclause, paragraph, subparagraph or Schedule is a reference to a Division, clause, subclause, paragraph, subparagraph or Schedule of this *haulage contract*.
- (4) Unless the context otherwise requires, in this *haulage contract*:
 - (a) words indicating a gender include each other gender; and
 - (b) words in the singular include the plural and vice versa.
- (5) If this *haulage contract* defines a word or expression, other parts of speech and grammatical forms of the word or expression have corresponding meanings.
- (6) The term **“including”** means “including but not limited to”.
- (7) A reference in this *haulage contract*:
 - (a) to a *delivery point* being **“on”** the *high pressure system*, 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*; and
 - (b) to a *receipt point* being **“on”** a *sub-network* means that the *receipt point* is attached to or forms part of the relevant *sub-network*, such that *gas* flowing through the *receipt point* flows into that *sub-network*.
- (8) The term **“under”** in relation to a provision of this *haulage contract*, includes “by”, “in accordance with”, “pursuant to” and “by virtue of”.
- (9) A reference in this *haulage contract* to a day or date 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.

Use of italic typeface to indicate defined terms

68. (1) Italic typeface has been applied to some words and expressions solely to indicate that those words or phrases may be defined in clause 67 or elsewhere in this *haulage contract*.
- (2) In interpreting this *haulage contract*, the fact that italic typeface has or has not been applied to a word or expression must be disregarded.

SI units

69. Unless otherwise indicated, all units in this *haulage contract* are SI units in accordance with the International System of Units set out in Australian Standard 1000-1979.

References to contracted peak rate

70. (1) Unless the contrary intention appears, and subject to subclause (2), wherever *contracted peak rate* or *capacity* of the *AlintaGas GDS* generally is required by this *haulage contract* to be quantified, it must be quantified as an *instantaneous flow rate* and must be expressed in gigajoules per hour.
- (2) In this *haulage contract*, the calculation and invoicing of prices payable by *Sales* is on an energy basis rather than a volume basis.



