

# **Carpentaria Gas Pipeline**

## **Indicative Terms and Conditions of Access and Rates**

**(National Gas Rules 2009, section 36)**

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**A. Introduction**

The service provider owns the Pipeline which is a covered pipeline for the purposes of the National Gas Law and is deemed a light regulation pipeline.

The service provider publishes these terms and conditions in accordance with *National Gas Rules 2009* s36.

The National Gas Rules require service provider, as a provider of pipeline services by means of a light regulation pipeline, to publish on its website the prices on offer for light regulation services and the other terms and conditions of access to those services.

Please note:

1. These indicative terms and conditions and rates apply to the Pipeline as at the date of publication and may change from time to time as determined by service provider.
2. All services are negotiated to meet users' haulage requirements. The availability of services depends on the nature of the services requested and the capacity of the Pipeline.
3. The actual terms and conditions of any haulage service negotiated between the service provider and the user will be governed solely by the terms and conditions set out in the agreement signed by the parties. Nothing in this document implies terms or conditions in that agreement.
4. The service provider reserves the right to negotiate different rates and service terms and conditions with different users, subject to the service provider's statutory obligations regarding price discrimination.

## B. Details Schedule

**Pipeline:** Carpentaria Gas Pipeline

**Service provider:** Roverton Pty Limited ABN 68 011 071 917 and APT Pipelines (Qld) Pty Limited ABN 49 080 382 387, wholly owned subsidiaries of the APA Group.

### Indicative Rates:

*Throughput Rate:* \$1.40/GJ of gas delivered

*Capacity Rate:* Not Applicable

*Minimum Bill:* 90% x the MDQ (in GJ) x Throughput Rate x the number of days in the month

*Overrun Rate:* 200% of Throughput Rate

*Imbalance Rate:* 250% of Throughput Rate

*Daily Variance Rate:* 120% of Throughput Rate

*Variance Allowance:* 10% of MDQ

### **Notes on Indicative Rates:**

1. *These rates apply as at 1 July 2010 to firm forward haul services for a 15 year term. For other services and shorter terms less than 15 years, rates will be determined by negotiation.*
2. *Refer to paragraph 7 of this document for details of the charges to which the above rates apply.*
3. *The services are provided from existing Pipeline capacity. The rates to apply to tranches of capacity from future expansions will be as negotiated between the service provider and the user.*
4. *These rates are quoted on a GST-exclusive basis.*

**Rate Escalation:** All rates escalate quarterly by any change in the Consumer Price Index (All Groups Index for the Weighted Average Eight Capital Cities) as published by the Australian Bureau of Statistics from time to time for any quarter.

**Payment Date:** Within 15 Days after the receipt by the user of the service provider's valid tax invoice.

## **C. Service terms and conditions**

### **1. Services**

#### **1.1 Application of document**

The terms and conditions below apply to firm forward-haul services, for a 15 year term, for gas delivered into the Pipeline by or on behalf of a user through any length of the Pipeline.

Services other than firm forward-haul services, such as interruptible services or as available services, may be available and can be negotiated with the service provider. In each case the applicable rates for other services will be determined by negotiation.

#### **1.2 Firm Service**

If the Parties negotiate the provision of a Firm Service then the service provider will provide a Firm Service on the following basis:

- the receipt by the service provider at the Receipt Points of quantities of Gas Nominated by the user, not exceeding the applicable MDQ and in aggregate not exceeding the Firm MDQ, at a rate per Hour not exceeding the applicable MHQ;
- the transportation of the Gas referred to in the bullet point above on a firm basis and without interruption, except as permitted under the agreement; and
- the delivery by the service provider to or on account of the user at the Delivery Points of the quantities of Gas Nominated by the user, not exceeding the applicable MDQ and in aggregate not exceeding the Firm MDQ at a rate per Hour not exceeding the applicable MHQ,

as Scheduled in accordance with the agreement (**Firm Service**).

The service provider will provide the Firm Service to the user on each Day during the term of the agreement in accordance with the terms and conditions of the agreement.

### **2. Prudential requirements**

The service provider may:

- require the user to provide, prior to commencement of transportation services and in certain other circumstances under the agreement, financial security acceptable to the service provider for the performance of the user's obligations under the agreement; and
- in certain circumstances (eg. failure to pay, loss of approvals), refuse to provide or suspend the provision of services, without liability to the user.

### 3. Nominations

The user must give to the service provider at least 3 Days before the beginning of each Month, a completed Nomination for the Firm Service for each day of the Month about to commence. If the user fails to provide such a Nomination by this time then its Nomination for each Day it has failed to give a Nomination will be deemed to be zero GJ.

The user may revise its Nomination:

- (a) for the Firm Service for a Day; or
- (b) in order to correct an Imbalance for quantities to be received at a Receipt Point for a Day,

by giving the service provider an updated Nomination for that Day prior to the Nomination Deadline.

The service provider is not liable to provide services nominated by the user (other than to process the Nomination as described in this paragraph 3) except to the extent that the service provider Schedules services for the user in accordance with the agreement. The service provider is not obliged to receive or deliver any quantity of Gas in excess of the quantities Scheduled.

### 4. Scheduling

Following the receipt of the user's Nomination, the service provider must (subject to the terms of Firm Service and Nominations under the agreement and to certain adjustments (see below)) Schedule for acceptance at the Receipt Points the lesser of:

- the quantity of Gas Nominated by the user at the Receipt Points; and
- the aggregate quantity of Gas confirmed for supply on account of the user at the Receipt Points by the Interconnect Parties at the Receipt Points.

Following the receipt of the user's Nomination, the service provider will (subject to the terms of Firm Service and Nominations under the agreement and to certain adjustments (see below)) Schedule for delivery at the Delivery Points the lesser of:

- the quantity of Gas Nominated by the user at the Delivery Points; and
- the quantity of Gas confirmed for acceptance on account of the user at the Delivery Point by the Interconnect Party at the Delivery Point.

The service provider may (acting reasonably) adjust the Schedule at the Receipt Points or Delivery Points as necessary to maintain the operational integrity of the Pipeline or to comply with any laws or STTM Rules.

If there is not sufficient capacity to transport all the quantities of Gas nominated by all users on a Day, then the service provider will (subject to STTM Rules, other laws and the operability of applicable gas markets and pipeline networks) Schedule the quantities nominated by users (including the user) in the following priority and sequence:

- First — quantities nominated by users under Firm Transportation Agreements, not to exceed their respective MDQs. If the capacity available is not sufficient to

serve all such users' nominated quantities, then the available capacity will be allocated among users pro rata on the basis of their respective MDQs.

- Second – quantities nominated by users with As Available Transportation Agreements, not to exceed their respective MDQs for as available transportation services. If the capacity available is not sufficient to serve all users' nominations pursuant to as available services, then the available capacity will be allocated among those users pro rata based on their nominations for as available services.
- Third – quantities accepted for transportation by service provider from users with As Available Transportation Agreements in excess of their respective MDQs for as available transportation services.
- Fourth — quantities nominated pursuant to Interruptible Transportation Agreements. If the capacity available is not sufficient to serve all users requesting that service, then the service provider will allocate the available capacity first on the basis of the highest tariff being paid, second on a first-come, first-served basis, based upon the date of execution of the Interruptible Transportation Agreements and third on a pro rata basis among users who have entered into Interruptible Transportation Agreements on the basis of nominated quantities.

Any back haul transportation will be Scheduled in accordance with the priorities set out above to the extent that sufficient forward haul transportation is Scheduled on such Day.

In accordance with this paragraph 4, the service provider may Schedule or re-Schedule receipts and deliveries Nominated by the user, without liability to the user.

If, on service provider's request, the user does not provide a schedule of priorities for the purpose of Scheduling then the service provider may, without liability to the user, select what Nominated receipts or deliveries will not be Scheduled to balance the user's Scheduled receipts and deliveries.

## **5. Curtailment**

If on any Day the capacity of the Pipeline or any portion of it, or the capacity of any Receipt Point or the Delivery Point, is insufficient to serve all the quantities of Gas Scheduled for all users, then the service provider may curtail or interrupt the receipt, transportation or delivery of Gas (as the case may be) in accordance with the sequence and priorities set out below to the extent necessary to provide transportation services within the capacity of the Pipeline on the Day (subject to STTM Rules, other laws and the operability of applicable gas markets and pipeline networks):

- First – Overrun Quantities under the agreement and overrun quantities under other Transportation Agreements.
- Second — quantities Scheduled pursuant to Interruptible Transportation Agreements. If the capacity available is not sufficient to serve all users requesting such service, then the service provider will allocate the available capacity first on the basis of the highest tariff being paid, second on a first-come, first-served basis, based upon the date of execution of the Interruptible Transportation Agreement and third on a pro rata basis among users who have entered into Interruptible Transportation Agreements on the basis of nominated quantities.

- Third – quantities accepted for transportation by the service provider from users with As Available Transportation Agreements in excess of their respective MDQs for as available transportation services.
- Fourth – quantities for transportation for users with As Available Transportation Agreements up to their respective MDQs for as available transportation services. If the capacity available is not sufficient to serve all users' as available quantities, then the available capacity will be allocated among those users pro rata based on Scheduled quantities.
- Fifth — quantities Scheduled for transportation to users pursuant to Firm Transportation Agreements, not to exceed their respective MDQs for firm transportation services. If the capacity available is not sufficient to serve all such users' quantities then the available capacity will be allocated among those users pro rata on the basis of their respective MDQs for firm transportation services.

Any back haul transportation is subject to interruption prior to any other quantities to the extent that there is insufficient forward haul transportation to permit a back haul service.

If the service provider interrupts or curtails receipts or deliveries of quantities of Gas under this paragraph 5, the service provider is not liable to the user in respect of the interruption or curtailment if:

- the interruption or curtailment:
  - results from planned or unplanned maintenance in respect of the Pipeline; or
  - is, in the service provider's opinion (acting reasonably), necessary in accordance with good engineering and operating practice to ensure the safe and efficient operation or integrity of the Pipeline; or
  - is permitted under the agreement; or
- the service provider is not obliged under the agreement to provide the service; or
- a Force Majeure Event occurs; or
- the insufficiency of Pipeline capacity is not caused by the service provider's wilful default or gross negligence.

In the event that on any Day because of a reduction in the average heating value of Gas the service provider is of the opinion that the aggregate of quantities of Gas to be delivered to all users may exceed the Pipeline capacity the following formula will be used to allocate a proportion of available Pipeline capacity to each user:

$$\text{Adjusted MDQ} = \text{MDQ} \times [1 + 0.02 \times (\text{AHV} - 40)]$$

Where:

AHV = the average heating value expressed in Megajoules per standard Cubic Metre of Gas delivered on any Day the service providers applies this formula.

## **6. Imbalances**

The user must use reasonable endeavours to ensure that receipts of Gas at Receipt Points and deliveries of Gas at Delivery Points are equal, adjusted for any Authorised Imbalances.



If the service provider believes on reasonable grounds that its ability to transport the quantities of Gas Scheduled under the agreement or any other Transportation Agreement may be impaired by an Unauthorised Imbalance and the user does not, within 4 hours of receipt of a notice from the service provider, take all steps reasonably practicable to correct such Unauthorised Imbalance, then the service provider may (but is not obliged to) correct such Unauthorised Imbalance by reducing the user's receipts and/or deliveries of quantities of Gas as necessary or buying or selling sufficient quantities of the user's Gas. The user will indemnify the service provider for 130% of all costs and expenses the service provider incurs in purchasing Gas to make a correction. The service provider may retain 30% of the proceeds of sale of the user's Gas to make a correction.

The service provider is not responsible for eliminating any imbalances between the user and an Interconnect Party or any other person operating Interconnection Facilities and, except in certain circumstances, is not obliged to adjust or deviate from its standard operating and accounting procedures in order to alleviate those imbalances.

## **7. Rates and Charges**

The service provider may charge the user:

- Throughput charge for quantities of Gas delivered.
- Minimum Bill for the reservation of Pipeline capacity to the user, irrespective of the quantity of Gas transported for the user.
- Capacity charge, based on the Capacity Rate multiplied by Firm MDQ, which is also for the reservation of Pipeline capacity to the user but associated with the recovery of capital expenditure by the service provider.
- As Available Charge, for quantities of Gas, not exceeding the As Available MDQ, delivered to or for the account of Shipper at the Delivery Points under an As Available Service.
- Overrun charges for the delivery of Overrun Quantities delivered in each Month.
- Imbalance charges for the amount by which Unauthorised Imbalances for a Day exceed the agreed allowance for Imbalances for a Day.
- Daily Variance charges for each Day on which there is a variance between actual and Scheduled quantities of Gas at a Delivery Point or Receipt Point which exceed the Variance Allowance.

The indicative rates and the escalation methodology applicable to the above charges are set out in the Details.

Additionally, the user must pay the following charges:

- If an intra-day nomination service is negotiated by the Parties then intra-day charges will apply in relation to quantities of Gas nominated as intra-day nominations, at rates to be negotiated.
- Where the agreement relates to a Delivery Point which is a hub, Allocation Variance Charges for MOS Decrease Quantities received by the service provider on a Day under the MOS Decrease Service (an STTM related service) which equal or exceed 10% of the applicable MDQ at the Delivery Point.

- New Imposts - the service provider may recover from the user the amount by which a New Impost increases the service provider's costs of providing the transportation services under the agreement by more than a trivial amount.
- Emissions Costs – the user must pay to the service provider the value or number of Emissions Permits required to be held, used or surrendered and all other reasonable costs, charges and expenses (including, without limitation, taxes, impost and internal and external compliance costs) incurred by the service provider or its Related Bodies Corporate under or in respect of:
  - a Greenhouse Gas Law;
  - activities undertaken for the purpose of offsetting, reducing or avoiding liability under a Greenhouse Gas Law;
  - activities undertaken for the purpose of reducing, or reducing the growth in, the emission of Greenhouse Gases; or
  - liability incurred to third parties in respect of third parties' costs, charges and expenses under or in respect of any of the matters mentioned in the 3 points immediately above,
 and related to the services to be provided by the service provider under the agreement or the service provider's business operations to the extent they relate to those services, as reasonably determined and apportioned by the service provider in respect of the services.
- Change in Law – if there is a change in law (other than to the extent it relates to new or amended income or capital gains taxes) which results in a change in the relevant costs of the service provider or its Related Bodies Corporate by more than a trivial amount, the Parties must adjust the amounts payable by the user under the agreement or make provision for a lump sum payment or other compensation based on the net financial effect of the relevant change in law on the relevant costs of the service provider and/or its Related Bodies Corporate.
- Licence Fees - the user must reimburse the service providers, in the proportion its MDQ bears to the total of the Firm Transportation Agreement MDQs, any Licence Fee payable by the service provider in respect of the Pipeline.

GST is payable by the user.

## **8. System Use Gas and Line Pack**

Each user must supply, at no cost to the service provider, the quantity of System Use Gas as determined by the service provider (acting reasonably) to provide the transportation service to the user. The service provider will make this determination monthly by reference to the proportion that the quantity of Gas delivered to the user bears to the quantity of Gas delivered to all users (including the user), except where the jurisdiction is New South Wales, in which case it will be determined by reference to the proportion that the quantity of Gas received under the agreement bears to the quantity of Gas received under all Transportation Agreements (including the agreement with the user), in the relevant Month.

The service provider will provide (and retain ownership of) a fixed quantity of Gas in the Pipeline to form part of the Line Pack. Each user (including the user) will provide additional Line Pack when advised by the service provider from time to time in such proportion, as determined by the service provider from time to time, equal to the proportion that the Delivery MDQ bears to the total of all users' MDQs (including the Delivery MDQ).

## 9. Operation of Pipeline

The service provider must operate and maintain the Pipeline in accordance with good engineering and operating practice.

If the service provider wishes to carry out Pipeline works, repairs or maintenance then it may, without liability to the user, curtail services to the user to the extent necessary to carry out such works provided it gives the user at least 1 Month's notice of the proposed Pipeline works and, after consultation with the user, uses reasonable endeavours to carry out such works:

- so as to avoid or minimise, so far as is reasonably practicable, disruption to services to the user; and
- during a period in which the service provider reasonably forecasts will have relatively low aggregate demand for Gas.

If the service provider reasonably believes it is necessary to carry out Pipeline works or maintenance in order to protect the operational integrity and safe operation of the Pipeline or to comply with any applicable laws or approvals, the service provider may, without liability to the user, curtail or interrupt deliveries of Gas to the extent necessary to carry out such works or maintenance provided the curtailment is not predominantly caused by the service provider's negligence or breach of agreement and the service provider gives the user as much notice as is reasonably practicable.

The user will ensure its Gas supply and Gas acceptance arrangements are compatible with the service provider's Pipeline operations.

## 10. Quality

The Gas delivered by or on behalf of the user at the Receipt Point must be in accordance with the gas specifications published by the service provider from time to time in respect of the Pipeline (currently available at <http://apa.com.au/our-business/gas-transmission-and-distribution.aspx>) and any other quality as the law in the relevant jurisdiction requires. The service provider may, by notice to the user, vary these above specifications if it is authorised or required to do so by law or any Authority.

If the law or any Authority requires a change to the gas quality specifications set out above and the change results in increased costs to the service provider or its Related Bodies Corporate then the service provider (acting reasonably) may allocate the increased costs across all users (including the user) on an equitable basis, provided the service provider uses reasonable commercial endeavours and good engineering and operating practice to minimise the increased costs.

If the gas offered for transportation by the user fails at any time to meet the required specifications then the service provider may refuse to accept all or any portion of that Off-Specification Gas and must advise the user as soon as is practicable. Such refusal, or the service provider not transporting such gas after acceding to an instruction or request from the user to reject receipts of such gas, does not relieve the user from its obligation to pay any Minimum Bill or Capacity Charge.

Subject to the responsibilities of the service provider in the paragraph below, if the user offers, and service provider receives, Off-Specification Gas for transportation

then the user is responsible for and indemnifies the service provider against any loss or damage suffered or incurred by the service provider to the extent it results from the receipt, transportation and delivery of that gas.

If the user instructs (in writing) the service provider to reject receipt of Off-Specification Gas and the service provider continues to accept receipts and to transport and deliver the gas notwithstanding the instruction the service provider will be responsible for any loss or damage suffered or incurred by itself, the user or any other person as a result of the continued receipt, transportation or delivery of the gas after the time at which the service provider, in accordance with good engineering and operating practice, could reasonably have stopped receipt, transportation or deliveries.

#### **11. Receipt pressures**

Gas must be supplied to the service provider at the Receipt Point at pressures nominated by the service provider from time to time as being sufficient to allow Gas to enter the Pipeline, but in no case greater than a set maximum pressure determined for each Receipt Point. The user must indemnify the service provider for all loss and damage suffered or incurred by the service provider as a result of the user breaching the above obligation. The service provider is under no obligation to install inlet compression or other facilities at the Receipt Point to permit the entry of user's Gas into the Pipeline.

#### **12. Possession of gas and responsibility**

The service provider is in control and possession of the Gas following receipt of the Gas from the user at the Receipt Points and prior to delivery of the Gas to the user at the Delivery Points, net of any System Use Gas provided to the user at the Delivery Points. In the absence of the service provider's negligence, breach of the agreement or wilful misconduct, the service provider is not responsible for losses of the user's Gas while Gas is in the service provider's control and possession.

The Gas received by the service provider at the Receipt Points may be commingled with other Gas in the Pipeline.

#### **13. Warranties & Representations**

The user warrants and represents (among other things) that at the time of supply of Gas to the service provider at the Receipt Points the user will have unencumbered title to, and the right to supply that Gas at the Receipt Point for transportation by the service provider under the agreement.

#### **14. Title**

Title to the Gas received by the service provider at the Receipt Point remains with the user except for:

- liquid hydrocarbons separated from or condensed in the gas stream during normal transportation operations and in accordance with good engineering and operating practice after receipt of the gas and before its delivery; and
- System Use Gas the user is required to supply to the service provider under the agreement; or
- where the jurisdiction is Western Australia.

In Western Australia title to the Gas received by the service provider at the Receipt Points passes to the service provider and title to the Gas delivered by the service provider at the Delivery Points passes to the user.

#### **15. Allocation of receipts and deliveries**

If the quantities of Gas actually received at the Receipt Points or delivered at the Delivery Point (other than deliveries to a Delivery Point which is a hub) do not equal the quantities Scheduled by the service provider on any Day, then those quantities actually received or delivered by the service provider (as the case may be) must be allocated among users for a particular Hour or on a particular Day on a pro rata basis according to a user's Scheduled receipts for a Receipt Point or Scheduled deliveries for a Delivery Point (as the case may be) as a proportion of all users' Scheduled receipts at the relevant Receipt Point or deliveries at the relevant Delivery Point (as the case may be).

If quantities of Gas are delivered to a Delivery Point which is a hub then such quantities will be allocated, for a Day or Hour (as the case may be), firstly based on the user's Scheduled deliveries for that Delivery Point (although within Scheduled deliveries, priority is given to those deliveries which are supplied by users as Matched Allocation Quantities), secondly in accordance with the STTM Rules and lastly, for any overrun MOS or other remaining Gas, on a pro rata basis according to a user's Scheduled deliveries for forward haul services at that Delivery Point for that Day or Hour (as the case may be) as a proportion of all users' Scheduled deliveries for forward haul services at that Delivery Point for that Day or Hour (as the case may be).

If all users for a Receipt Point or Delivery Point agree on an alternative allocation methodology to either of the above methodologies then the service provider may (but is not obliged to) apply such alternative methodology.

The service provider may revise its allocation methodology set out above from time to time to reflect, as far as reasonably possible, any third party allocation methodologies imposed on the service provider in respect of a particular Receipt Point or Delivery Point.

#### **16. Substitution of Receipt Points and Delivery Points**

The user may request substitution of an existing MDQ in relation to a Delivery Point or a Receipt Point to another Delivery Point or Receipt Point (respectively) provided the proposed substitution is to a Receipt Point or Delivery Point which has the necessary facilities.

The service provider may withhold or make conditional its consent to all or part of the above request on reasonable commercial or technical grounds.

If the MDQ for a Receipt Point or a Delivery Point is substituted, the amount payable under the agreement will be no less than what was payable prior to the substitutions having been made.

## **17. Addition of Receipt Points and Delivery Points**

The user may by notice to the service provider request the addition of other receipt points and delivery points on the Pipeline. The additional receipt point or additional delivery point must be required for a period of not less than 12 months.

The service provider will determine, acting reasonably, whether and the extent to which it is able to meet the user's request and any conditions on which it will offer to accommodate the request. The user will pay the service provider's reasonable costs incurred in evaluating the request.

The service provider will not be required to agree to a request for an additional receipt point or an additional delivery point if (among other things):

- in its reasonable opinion, taking into account the capacity of the Pipeline, to do so may reduce the service provider's ability to meet its obligations under other Transportation Agreements;
- the user has not made all appropriate arrangements with Interconnect Parties necessitated by the additional receipt point or the additional delivery point; or
- in its reasonable opinion it will be unable to secure any necessary amendment to the Pipeline Licence or obtain any other necessary approval.

If the user requests the service provider to undertake construction or modification of any additional receipt point or delivery point the user must pay the reasonable costs incurred by the service provider. If the user undertakes the construction or modification itself then it must do so under the supervision and in accordance with any reasonable directions and reasonable design and specification requirements of the service provider and connect the additional receipt point or additional delivery point on terms acceptable to the service provider.

If a receipt point or a delivery point is added, the amount payable under the agreement will be no less than what was payable prior to the additions having been made.

## **18. Dispute Resolution**

Either Party may refer a dispute relating to a financial or technical matter for determination by an independent expert whose determination, in the absence of manifest bias or error, is final and binding upon the Parties. Once a dispute is referred to an independent expert for determination then neither Party may commence or continue court proceedings (except where seeking interlocutory relief) in relation to that dispute until the dispute is determined by the independent expert.

## **19. Default**

The agreement may, by written notice, be terminated or suspended for default by a Party, after a 7 day cure period for a financial default (including if a Party is Insolvent) and after a 21 day cure period for a non-financial default. If a non-financial default is not capable of remedy then a non-defaulting Party may terminate or suspend the agreement, after the 21 day cure period, if the defaulting Party does not:

- take reasonable steps required by the non-defaulting Party to ensure the event of default is not repeated; and

- does not pay the non-defaulting party the sum (if any) that the non-defaulting party reasonably determines is required to compensate the non-defaulting party for the event of default.

In addition to the above right to terminate or suspend the agreement a non-defaulting Party may also sue for damages or exercise any other available legal or equitable remedy. Termination does not affect accrued rights.

## **20. Billing & Payment**

The service provider will render monthly accounts.

The user will pay the service provider's tax invoices by the Payment Date. Late payment attracts interest.

Any disputed amount which is subsequently found to be payable by or repayable to the user will be due and payable no later than 14 Days after issue of an adjustment note by the service provider (such note must be issued within 28 Days of resolution), together with interest on that amount.

If an error is discovered in any bill, then the error will be adjusted, with interest, on the next tax invoice provided to the user after the error is discovered. However, no claim for an adjustment will be made after 12 months from the date of the deliveries of Gas to which the erroneous tax invoice relates.

## **21. Information Interface**

The service provider retains ownership of and all intellectual property rights in the Information Interface and grants the user a right to access the Information Interface solely for the purposes of submitting Nominations and for receiving information regarding receipts, deliveries, balances and Gas flows under the agreement. Only the user's employees authorised by the service provider may use the Information Interface. The user is liable for any loss incurred by the service provider resulting from use of the Information Interface by such of the user's employees.

## **22. Limitation of Liability & Indemnity**

The liability of a Party (including of the service provider's Related Bodies Corporate) does not extend to Consequential Loss or punitive or exemplary damages, except in respect of the user's liability relating to:

- the user's obligations relating to Imbalances;
- rates, charges and other payments under the agreement;
- the user's obligation to deliver gas which meets the gas specifications advised by the service provider or required by law;
- the user offering Off-Specification Gas for transportation;
- a failure to supply Gas at Receipt Points at pressures nominated by the service provider and the user's indemnity for such failure;
- the indemnity described two paragraphs below; and
- the use of the Information Interface by the user's employees who have been authorised for use by the service provider.

The aggregate liability of the service provider and its Related Bodies Corporate in respect of the agreement is limited to a monetary liability cap which is set on a case by case basis.

The user indemnifies the service provider and its Related Bodies Corporate from and against any liability, claim, action, loss, damage, cost or expense the service provider or its Related Bodies Corporate sustains or incurs, whether during or after the expiry of the agreement, because of any of the following:

- a customer or contract counterparty of the user suffers, or claims to suffer, loss or damage in respect of the service provider's or its Related Bodies' Corporate acts or omissions under the agreement; or
- a third party (including another user and a customer or contract counterparty of the user or another user) suffers, or claims to suffer, loss or damage in respect of the user's acts or omissions under the agreement,

except to the extent that it has been caused or contributed to by the negligence, wilful misconduct or breach of the agreement by the service provider or its Related Bodies Corporate.

### **23. Force Majeure**

Force Majeure Event means any event or circumstance which is beyond the reasonable control of a Party, which by the exercise of due diligence, that Party is not reasonably able to prevent or overcome and which prevents the performance of an obligation under the agreement, including, without limitation:

- acts of God, including without limitation, earthquakes, floods, washouts, landslides, lightning, storms and the elements;
- strikes, lockouts, bans, slowdowns or other industrial disturbances;
- acts of enemy, wars, acts of terrorists, blockades or insurrections, riots and civil disturbances, arrest and restraint of rulers and peoples;
- fire or explosion;
- epidemic or quarantine;
- any order or direction of any Authority, or omission or failure to act by any Authority, or the failure to obtain or maintain any necessary approval, permit, licence, registration or exemption required by an Authority or under any law;
- accidents, breakdown, loss or damage of or the need to undertake alterations, repairs or maintenance to (other than routine maintenance for which notice has not been given) the Pipeline, any lateral pipelines owned or operated by the service provider and related machinery, equipment or facilities (including Interconnection Facilities).

Lack of finances, changes in market conditions for transportation or the purchase and sale of gas, the inability of the user or a person supplying gas at or upstream of the Receipt Points to provide gas for transportation under the agreement or the inability of the user or a person consuming gas at or downstream of the Delivery Points to take gas are not a Force Majeure Event under the agreement, regardless of how they are caused.

Subject to certain exceptions, a Party's obligations under the agreement are suspended during the time, and to the extent, that their performance is prevented, wholly or in part, by a Force Majeure Event and no liability to the other Party accrues



for loss or damage of any kind arising out of, or in any way connected with that non-performance.

However, such suspension does not, among other things, relieve the user of its obligation to pay a Minimum Bill or Capacity Charge unless the service provider fails to deliver quantities of Gas Scheduled under the Firm Service as a result of a Force Majeure Event affecting the service provider in which case the Minimum Bill and/or Capacity Charge will be reduced by the service provider, acting reasonably, having regard to the proportion of the Month in which the service provider fails to deliver quantities of Gas to the user as a result of the Force Majeure Event.

Force Majeure Events do not relieve a Party of liability:

- if and to the extent that its negligence, wilful misconduct or breach of contract caused or contributed to its failure to perform under the agreement;
- if and to the extent that it fails to use all reasonable endeavours to remedy the situation and to remove the circumstance giving rise to the Force Majeure Event adequately and promptly; or
- to make payments of amounts then due in respect of Gas previously delivered.

If performance of an obligation under the agreement is prevented for a period of 12 Months as a result of a Force Majeure Event then, after a 7 Day period of consultation between the Parties, either Party may terminate the agreement on 2 Months notice.

## **24. Assignment**

A Party may assign the whole or part of its interest in the agreement if the assignment is part of a corporate acquisition, merger or reorganisation and the financial standing of the assignee is at least substantially equivalent to the financial standing of the assigning Party.

The service provider may assign its interest in the agreement to another person who owns the Pipeline.

Any other assignment by a Party of a whole or partial interest in the agreement requires the consent of the other Party (which must not be unreasonably withheld).

If there is a change in control of a Party (or its ultimate holding company) which is not listed on a recognised stock exchange then the consent of the other Party (which must not be unreasonably withheld) must be obtained. If such consent is not obtained within 60 Business Days the other Party may terminate the agreement.

## **25. Assignment of contracted capacity**

If the Pipeline is subject to an access arrangement approved by the Australian Energy Regulator or other relevant Authority the user may, by way of notice to the service provider and without service provider's consent, assign, by way of subcontract, all or any contracted capacity under the agreement. The user's rights against and obligations to the service provider remain unaffected.

## **26. Assignment of MDQ Entitlement**

Except where it involves an assignment of contracted capacity (refer to paragraph 25 above) the user may, with the service provider's written consent (not to be

unreasonably withheld), assign its Receipt MDQ or Delivery MDQ (or both) provided that, among other things:

- the Receipt MDQ or Delivery MDQ to be assigned relates to the Receipt Points and Delivery Points or, if different receipt points or delivery points are proposed, the assignee meets the service provider's reasonable requirements;
- the assignee confirms in writing that it has made all necessary arrangements with producers of Gas for the assignee, purchasers of Gas from the assignee and any other party relating to that service, including all Gas purchase, Gas sale, operating and multi-party Receipt Point and Delivery Point arrangements; and
- the user and/or the assignee agree to pay the service provider's costs of constructing any additional facilities required and agree to any of the service provider's reasonable conditions relating to such construction.

## 27. Confidentiality

A Party receiving Confidential Information may use it solely for the purposes of performing its obligations under the agreement or for internal purposes related to the governance of the Party or its Related Bodies Corporate. A Party must obtain the prior written consent of the other Party in order to use or disclose Confidential Information for any other purpose, subject to certain specific circumstances where consent is not required. These circumstances include, among other things, if disclosure is required by law or an Authority or if the information is at that time lawfully generally available to the public, other than as a result of a breach of the agreement.

## 28. Definitions

Subject to the definitions below, the terms used in the Details (such as **Pipeline**) have the meaning set out in the Details.

These definitions apply to this document unless the context requires otherwise:

**Allocation Variance Charge** means the amount in dollars calculated by multiplying the MOS Decrease Quantity (in GJ) by the Daily Variance Rate (and, if the Daily Variance Rate is expressed as an amount per kilometre per GJ or an amount per GJ per kilometre, the number of kilometres for the purposes of the calculation is deemed to be the distance of the Pipeline mainline rounded to the nearest whole kilometre).

**As Available Transportation Agreement** means a Transportation Agreement which provides for transportation services on an as available basis (however described), including the parts of the agreement relating to any as available service provided to the user.

**AEMO** means the Australian Energy Market Operator Limited ACN 072 010 327.

**Authorised Imbalances** means one or more of the following:

- any Imbalance caused by the user providing Shipper's Line Pack share in accordance with the agreement; or
- any Imbalance caused by the user providing System Use Gas in accordance with the agreement.

**Authority** means:

- (a) any national, federal, state, provincial, territory or local government (and all agencies, authorities, departments, ministers or instrumentalities or any of them);
- (b) any:
  - (i) administrative or judicial body; or
  - (ii) public tribunal, commission, corporation, authority, agency or instrumentality,
 having jurisdiction or authority in respect of the agreement; and
- (c) without limiting or being limited by paragraphs (a) or (b), Australian Energy Regulator, AEMO, their successor or replacement entities and any other entities established under legislation from time to time with the authority to regulate, operate or administer the operations of gas pipelines or gas markets.

**Business Day** means a day other than a Saturday, Sunday or public holiday in the capital city of the relevant jurisdiction.

**Confidential Information** means information (whether or not recorded in a material form) that is not publicly available and that becomes available to a Party in respect of the agreement, including (without limitation) the terms and conditions of the agreement.

**Consequential Loss** means any of the following, however arising and even if it is reasonably contemplated by the Parties, at the date of the agreement, as a probable result of breach of the agreement:

- (a) loss or damage which does not arise directly or naturally from a breach of the agreement;
- (b) indirect, incidental, special, remote, unforeseeable or consequential loss or damage;
- (c) direct or indirect loss of revenue, profit, income, bargain, opportunity or anticipated savings;
- (d) costs or expenses incurred to prevent or reduce loss or damage which otherwise may be incurred or suffered by a third party; or
- (e) direct or indirect loss or damage incurred or suffered by a third party.

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

**Day** means a period of 24 consecutive hours beginning (depending on the jurisdiction) at:

- (a) New South Wales – 6:30 am Australian Eastern Standard Time;
- (b) Queensland – 8:00 am Australian Eastern Standard Time; and
- (c) Western Australia – 8:00 am Australian Western Standard Time.

**Delivery MDQ** means the Firm MDQ.

**Delivery Points** means the Delivery Points, as specified in the agreement, to which the Gas will be delivered under the agreement. The term includes a reference to

equipment connected to, or forming part of, the Pipeline that facilitates delivery of Gas at the Delivery Points.

**Details** means the details set out in Part B of this document.

**Emissions Permit** means a tradeable certificate, credit, permit, unit or similar right or instrument (however described) required to be held, used or surrendered to satisfy a liability of the service provider or a Related Body Corporate of the service provider under a Greenhouse Gas Law.

**Firm MDQ** means the maximum quantity of Gas which the service provider is from time to time obliged to receive across all Receipt Points and/or deliver across all Delivery Points to or on account of the user on any Day under the Firm Service.

**Firm Transportation Agreement** means a Transportation Agreement (including the agreement with the user) which provides for transportation services on a similar basis to the Firm Service.

**Force Majeure Event** has the meaning set out in paragraph 23 of this document.

**Gas** means gas which meets the specifications required under the agreement.

**Greenhouse Gases** means carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), sulphur hexafluoride (SF<sub>6</sub>) and other atmospheric gases commonly recognised as being responsible for causing or contributing to global warming or climate change under the United Nations Framework Convention on Climate Change.

**Greenhouse Gas Law** means a law relating to the emission of Greenhouse Gases, including (without limitation) the NGER Act.

**Hour** means a period of 60 consecutive minutes, beginning on the hour, in any Day.

**hub** has the meaning set out in the STTM Rules.

**Imbalance** means, in respect of a period of time, the difference between the quantity of Gas received from or on account of the user at the Receipt Points and the quantity of Gas delivered to or for the account of the user at the Delivery Points during that period.

For any period, an Imbalance is **positive** when receipt quantities exceed delivery quantities, and **negative** when delivery quantities exceed receipt quantities, during the period.

**Impost** means any royalty (whether based on value, profit or otherwise), tax (other than GST or a tax in the nature of an income tax or a capital gains tax but including a carbon tax, however described), duty, excise, levy, fee, rate or charge imposed by any law or by any Authority which is imposed on or in respect of:

- (a) the Pipeline (or any of its components);
- (b) the operation of the Pipeline; or
- (c) the provision of services by the service provider to the user under the agreement,

which has the effect of changing the service provider's cost of delivering the services under the agreement.

**Information Interface** means any secure, web-based interface operated by the service provider and used by the user for:

- (a) submitting Nominations under the agreement; and
- (b) obtaining access to information regarding receipts, delivery, balances and gas flows under the agreement.

**Insolvent** means in relation to a Party:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act); or
- (b) it has had a controller appointed or is in liquidation, in provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property; or
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other Party); or
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of (a), (b) or (c) above; or
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand; or
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to the agreement reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to (a) to (g) happens in connection with that person under the law of any jurisdiction.

**Interconnect Party** means the user or another person that operates facilities that are located up stream or down stream of the Interconnection Facilities.

**Interconnection Facilities** means those pipeline facilities that are required to connect the Pipeline to the facilities of another person.

**Interruptible Transportation Agreement** means a Transportation Agreement which provides for transportation services on an interruptible basis, including any parts of the user's agreement relating to an interruptible service.

**Line Pack** means the quantity of Gas, other than quantities of Gas being transported and System Use Gas, which the service provider determines is necessary to be in the Pipeline for the physical operation of the Pipeline from time to time in order to ensure that the service provider meets its obligations under all Transportation Agreements.

**Matched Allocation Quantities** has the meaning set out in the STTM Rules.

**MDQ** means the maximum quantity of Gas which the service provider is from time to time obliged to receive at a Receipt Point and/or deliver at a Delivery Point (as applicable) to or on account of the user on any Day, and if in respect to a particular service, the quantity for that particular service. Where the term is used in relation to a Transportation Agreement other than the agreement, the term means the maximum quantity of Gas which the service provider is obliged to deliver on any Day under that Transportation Agreement or the relevant transportation service under that Transportation Agreement (as applicable).

**MHQ** means the maximum quantity of Gas which the service provider is from time to time obliged to receive at a Receipt Point and/or deliver at a Delivery Point (as applicable) to or on account of the user in any Hour, and if in respect to a particular service, the quantity for that particular service. Where the term is used in relation to a Transportation Agreement other than the agreement, the term means the maximum quantity of Gas which the service provider is obliged to deliver in any Hour under that Transportation Agreement.

**Month** means the period beginning on the first Day of the calendar month and ending on the first Day of the succeeding calendar month.

**MOS decrease offer** has the meaning set out in the STTM Rules.

**MOS Decrease Quantity** for a Day means the quantity of MOS gas allocated to the user, in respect of the user's MOS decrease offers for that Day, in accordance with the STTM Rules.

**MOS gas** has the meaning set out in the STTM Rules.

**National Gas Law** means the gas law implemented under the *National Gas (South Australia) Act 2008* in South Australia and made applicable in the relevant jurisdiction (other than South Australia) under the relevant mirror application legislation.

**National Gas Rules** has the meaning given in the National Gas Law.

**New Impost** means any Impost imposed during the term of the Agreement that was:

- (a) not in force at the date of the agreement; or
- (b) in force at the date of the agreement, but the rate, basis of calculation or the basis of application of that Impost has been changed.

**NGER Act** means the *National Greenhouse and Energy Reporting Act 2007* (Cth).

**Nomination** means a request by the user to the service provider for services under the agreement, given in accordance with the agreement, in the manner and form (which may include by digital interface) advised by the service provider from time to time, including intra-day nominations. **Nominate** has a corresponding meaning.

**Nomination Deadline** means the following time, depending on the relevant jurisdiction, on the Day prior to the Day to which the Nomination relates (or such other time as the service provider advises the user in writing from time to time):

NSW – 2:30 pm Australian Eastern Standard Time

QLD – 2:30pm Australian Eastern Standard Time

WA – 2:30pm Australian Western Standard Time

**Off-Specification Gas** means gas offered by the user for transportation on the Pipeline which fails to meet the quality specifications referred to in paragraph 10 of this document.

**Overrun Quantity** means each quantity of Gas which is delivered to or on account of the user for each Delivery Point:

- (a) on a Day in excess of the aggregate of the applicable MDQ which is referable to that Delivery Point for that Day; or
- (b) at a rate per Hour in excess of the applicable MHQ for the Delivery Point.

**Party** means either the service provider or the user and **Parties** means them collectively.

**Pipeline** includes all facilities associated with the Pipeline, such as Receipt Points and Delivery Points and their respective facilities, Interconnection Facilities, odourisation facilities, pipeline control facilities, lateral pipelines and compressors.

**Pipeline Licence** means the pipeline licence issued by the relevant Authority, as amended or replaced, to construct and operate the Pipeline.

**Receipt MDQ** means the Firm MDQ.

**Receipt Points** means the Receipt Points, as specified in the agreement, at which the Gas will be received by the service provider under the agreement. The term includes a reference to equipment connected to, or forming part of, the Pipeline that facilitates receipt of Gas at the Receipt Points.

**Related Body Corporate** means a related body corporate as defined in the Corporations Act.

**Schedule**, for a Day, means a determination made prior to the Day by the service provider (acting reasonably, in accordance with the agreement and having regard to nominations of (and appropriate receipt point and delivery point allocations between) all users, the capacity of the Pipeline, rights and obligations under Transportation Agreements and good engineering and operating practice) of the service provider's intended Schedules of receipt quantities and delivery quantities of Gas on that Day under Transportation Agreements, as amended by the service provider for intra-day nominations (before or on the Day) or for operational reasons.

**Shipper's Line Pack** means the quantity of Gas, in the Pipeline at any time, received by the service provider on account of the user under the agreement, other than quantities of Gas Scheduled for transportation and System Use Gas.

**STTM** means the short term trading market for the supply of natural gas and related services to be operated and administered by AEMO.

**STTM Rules** means the short term trading market rules and procedures applicable in accordance with the National Gas Rules.

**System Use Gas** means the quantities of gas:

- (a) used as compressor fuel and for other purposes necessary for the management, operation and maintenance of the Pipeline; or

(b) otherwise lost and unaccounted for in connection with the operation of the Pipeline,  
other than Line Pack and Gas lost through the negligence of the service provider.

**Transportation Agreement** means any contract entered into between the service provider and a user for transportation services for that user.

**Unauthorised Imbalance** means any Imbalance which is not an Authorised Imbalance.