



**Tranche B Capacity Service Contract  
WAWP Pipeline System**

DBP Development Group Nominees Pty Limited  
ABN 99 153 397 632 as Trustee of  
the DBP Development Group Trust  
ABN 40 942 585 956  
Owner

---

[Shipper Name]  
[ABN]  
Shipper

---

## Table of Contents

### DETAILS 1

<b>1.</b>	<b>INTERPRETATION .....</b>	<b>3</b>
<b>2.</b>	<b>GENERAL .....</b>	<b>16</b>
<b>3.</b>	<b>CAPACITY SERVICE .....</b>	<b>18</b>
<b>4.</b>	<b>DURATION OF THE CONTRACT.....</b>	<b>19</b>
<b>5.</b>	<b>RECEIVING AND DELIVERING GAS.....</b>	<b>19</b>
	<i>5.1 Shipper may Deliver and Receive Gas</i>	<i>19</i>
	<i>5.2 Owner must Receive and Deliver Gas</i>	<i>19</i>
	<i>5.3 Owner may refuse to Receive Gas</i>	<i>20</i>
	<i>5.4 Notification of refusal to Receive Gas</i>	<i>20</i>
	<i>5.5 No liability for refusal to Receive Gas</i>	<i>20</i>
	<i>5.6 Owner may refuse to Deliver Gas</i>	<i>20</i>
<b>6.</b>	<b>INLET POINTS AND OUTLET POINTS .....</b>	<b>20</b>
	<i>6.1 Inlet Points and Outlet Points</i>	<i>20</i>
	<i>6.2 Multi-shipper Agreement</i>	<i>20</i>
	<i>6.3 Design and installation of Inlet Stations and Outlet Stations</i>	<i>21</i>
	<i>6.4 Requirements relating to Inlet Stations and Outlet Stations</i>	<i>21</i>
<b>7.</b>	<b>OPERATING SPECIFICATIONS .....</b>	<b>22</b>
	<i>7.1 Gas must comply with Gas specifications</i>	<i>22</i>
	<i>7.2 Gas to be free from certain substances</i>	<i>22</i>
	<i>7.3 Gas to be free from objectionable odours</i>	<i>22</i>
	<i>7.4 Gas temperature and pressure</i>	<i>22</i>
	<i>7.5 Notice of Out-of-Specification Gas</i>	<i>23</i>
	<i>7.6 Owner and Shipper may refuse to Receive Out-of-Specification Gas</i>	<i>23</i>
	<i>7.7 Owner may Receive Out-of-Specification Gas</i>	<i>23</i>
	<i>7.8 Shipper's Liability for Out of Specification Gas</i>	<i>23</i>
	<i>7.9 Shipper may Receive Out-of-Specification Gas</i>	<i>23</i>
<b>8.</b>	<b>NOMINATIONS .....</b>	<b>24</b>
	<i>8.1 Use of CRS</i>	<i>24</i>
	<i>8.2 Deemed Nominations</i>	<i>24</i>
	<i>8.3 Priority of Acceptance</i>	<i>24</i>
	<i>8.4 Advance Nomination</i>	<i>24</i>
	<i>8.5 Acceptance of Nominations</i>	<i>25</i>
	<i>8.6 Shipper may give Renomination notice</i>	<i>25</i>

8.7	<i>Scheduling of revised Daily Nominations</i>	26
8.8	<i>Renomination Priority</i>	26
8.9	<i>Default provision for Renomination process</i>	26
<b>9.</b>	<b>IMBALANCES .....</b>	<b>26</b>
9.1	<i>Owner to maintain balance</i>	26
9.2	<i>Shipper's Accumulated Imbalance</i>	26
9.3	<i>Notice of the Shipper's imbalances</i>	26
9.4	<i>Accumulated Imbalance Limit</i>	27
9.5	<i>Excess Imbalance Charge</i>	27
9.6	<i>Cashing out imbalances at end of Contract</i>	27
<b>10.</b>	<b>ADDITIONAL RIGHTS AND OBLIGATIONS OF OWNER.....</b>	<b>28</b>
10.1	<i>Commingling of Gas</i>	28
10.2	<i>Processing</i>	28
10.3	<i>Operation of Pipeline System</i>	28
10.4	<i>Delivery of Gas</i>	28
<b>11.</b>	<b>CONTROL, POSSESSION AND TITLE TO GAS .....</b>	<b>28</b>
11.1	<i>Warranty of Title</i>	28
11.2	<i>Control, Possession, Responsibility and Title of Shipper</i>	28
11.3	<i>Title, Custody, Control and Responsibility of Owner</i>	29
11.4	<i>Entitlements to Receive Gas</i>	29
<b>12.</b>	<b>METERING .....</b>	<b>29</b>
12.1	<i>Application of clause 15 of the SSC</i>	29
<b>13.</b>	<b>CURTAILMENT .....</b>	<b>30</b>
13.1	<i>Owner's obligations and Curtailment principles</i>	30
13.2	<i>Curtailment Generally</i>	30
13.3	<i>Liability for Curtailment</i>	30
13.4	<i>Refund of Capacity Reservation Charge</i>	30
<b>14.</b>	<b>MAINTENANCE AND MAJOR WORKS .....</b>	<b>30</b>
<b>15.</b>	<b>FORCE MAJEURE .....</b>	<b>31</b>
<b>16.</b>	<b>CHARGES .....</b>	<b>32</b>
16.1	<i>Obligation to pay Charges</i>	32
16.2	<i>Capacity Reservation Charge</i>	32
16.3	<i>Commodity Charge</i>	32
16.4	<i>Adjustment to Base Tariff for CPI</i>	32
16.5	<i>Other Taxes</i>	33
16.6	<i>Goods and Services Tax</i>	34
<b>17.</b>	<b>INVOICING AND PAYMENT .....</b>	<b>35</b>
17.1	<i>Monthly payment of Capacity Reservation Charge</i>	35

17.2	Monthly invoicing	35
17.3	Default in payment	35
17.4	Disputed Tax Invoices	36
17.5	Correction of payment errors	36
<b>18.</b>	<b>DEFAULT AND TERMINATION .....</b>	<b>36</b>
18.1	Default by Shipper	36
18.2	Notice of Shipper's default	37
18.3	When Owner may exercise remedy	37
18.4	Remedies for Shipper's default	38
18.5	Default by Owner	38
18.6	Notice of Owner's default	38
18.7	When Shipper may exercise remedy	38
18.8	Remedies for Owner's default	39
18.9	Saving of other remedies	39
18.10	Effect of termination	39
<b>19.</b>	<b>LIABILITY .....</b>	<b>40</b>
19.1	Liability limited to Direct Damage	40
19.2	Liability for fraud	40
19.3	No liability for Indirect Damage	41
19.4	No liability arising out of any approval by Owner	41
19.5	Saving of contractual payments	41
19.6	Shipper responsible for contractors' personnel and property	41
19.7	Owner responsible for contractors' personnel and property	42
19.8	Each limitation separate	42
<b>20.</b>	<b>DISPUTE RESOLUTION AND INDEPENDENT EXPERTS .....</b>	<b>43</b>
20.1	Application of clause 24 of the SSC	43
<b>21.</b>	<b>ASSIGNMENT .....</b>	<b>43</b>
21.1	Application of clause 25 of the SSC	43
<b>22.</b>	<b>CONFIDENTIALITY .....</b>	<b>43</b>
22.1	Confidential Information	43
22.2	Exceptions to Confidentiality	43
22.4	Permitted Disclosure	44
22.5	Disclosure by recipient of Confidential Information	45
22.6	Use of Confidential Information	45
22.7	Publicity	46
22.8	No disclosure of terms of this Contract	46
22.9	Remedies	46
<b>23.</b>	<b>NOTICES .....</b>	<b>46</b>
23.1	Operational notices	46
23.2	The CRS	46
23.3	Notices generally	47

23.4	Receipt of notices	47
24.	REPRESENTATIONS AND WARRANTIES .....	47
24.1	Owner's Representations and Warranties	47
24.2	Shipper's Representations and Warranties	48
25.	RECORDS AND INFORMATION.....	49
26.	INSURANCES.....	49
27.	NO WAIVER .....	51
28.	ENTIRE AGREEMENT .....	51
29.	SEVERABILITY .....	51
30.	ENTRY AND INSPECTION .....	52
31.	OWNERSHIP, CONTROL, MAINTENANCE AND RISK .....	52
32.	REVOCATION, SUBSTITUTION AND AMENDMENT .....	53
33.	NO COMMON CARRIAGE.....	53
34.	OWNER NOT A SUPPLIER OF GAS .....	53
35.	NO THIRD PARTY BENEFIT .....	53
36.	GOVERNING LAW.....	53
37.	OWNER'S LIMITATION OF LIABILITY.....	53
	SCHEDULE 1 - CHARGES .....	55
	SCHEDULE 2 - OPERATING SPECIFICATIONS .....	56
	SCHEDULE 3 - PRIORITY PLAN.....	58

## DETAILS

<b>Parties</b>	<b>Owner</b> and the <b>Shipper</b> , each as described below		
<b>Owner</b>	Name	<b>DBP Development Group Nominees Pty Limited</b> ABN 99 153 397 632 as Trustee of the DBP Development Group Trust	
	ABN	40 942 585 956	
	Address	Level 6 12-14 The Esplanade PERTH WA 6000	
	Telephone	+61 8 9223 4306	
	Email	<a href="mailto:dbp.notices@dbp.net.au">dbp.notices@dbp.net.au</a>	
	Fax	+61 8 9223 4301	
	Attention	GM Commercial	
<b>Shipper</b>	Name		
	ABN		
	Address		
	Telephone		
	Email		
	Fax		
	Attention		
<b>Capacity Service Type</b>	Tranche B Capacity Service comprising an interruptible gas transportation service for the Contracted Capacity at each Inlet Point and Outlet Point described clause .		
<b>Capacity Start Date</b>	08:00 hours on:		
<b>Capacity End Date</b>	08:00 hours on:		
<b>Inlet Point(s)</b>	<i>Location description</i>	<i>Designation</i>	<i>Contracted Capacity (TJ/d)</i>
	CS2	WI-02	
	TGS Facility	WI-01	
<b>Outlet Point(s)</b>	<i>Location description</i>	<i>Designation</i>	<i>Contracted Capacity (TJ/d)</i>
	CS2	WO-01	

	TGS Facility	WO-02	
<b>Charges</b>	As set out in Schedule 1.		
<b>Recitals</b>	A.	The Shipper has requested the Owner to provide the Tranche B Capacity Service to the Shipper.	
	B.	The Owner has agreed to provide the Tranche B Capacity Service to the Shipper up to the Contracted Capacity on the terms and conditions of this Agreement.	
<b>Governing Law</b>	Western Australia		
<b>Date of Agreement</b>	See execution page		

## 1. INTERPRETATION

In this Contract, unless otherwise expressly stated:

**Accumulated Imbalance** means the Shipper's accumulated imbalance calculated under clause 9.2.

**Accumulated Imbalance Limit** has the meaning given in clause 9.4.

**Accumulated Imbalance Notice** has the meaning given in clause 9.3.

**Accurate** means measuring the quantity of Gas with an inaccuracy of less than or equal to:

- a. plus or minus 1.5% for Metering Equipment with a design flow of 5 TJ/d or greater; and
- b. plus or minus 3% for Metering Equipment with a design flow of less than 5 TJ/d.

**Actual Mass Flow Rate** means either:

- a. a directly measured variable; or
- b. a Derived Variable computed by multiplying the instantaneous actual volume flow of Gas, as measured by the Metering Equipment, by the density of the Gas, the density being either:
  - i. measured as the instantaneous measured density of the Gas; or
  - ii. calculated in accordance with the American Gas Association's Report No. 8 (Natural Gas Density and Compressibility Factor), as the Owner determines, or in accordance with such other Gas industry standards as the Parties may agree.

**Affected Party** has the meaning given in clause 15(a).

**Annual WAWP Maintenance Schedule** has the meaning given in clause 14(a).

**AS** followed by a designation, refers to the text from time to time amended and for the time being in force of the document so designated issued by Standards Australia.

**Ashburton West Facilities** means the inlet facilities with remote operable mainline valve and pig launching facilities linking the Wheatstone Lateral to the Ashburton West Loop and the Ashburton West Lateral.

**Ashburton West Loop** means the 16" Gas transmission pipeline approximately 87 km long linking the Ashburton West Facilities with compressor station 2 on the WAWP.

**Ashburton West Lateral** means the 10" Gas transmission pipeline approximately 87 km long linking the Ashburton West Facilities with compressor station 2 on the WAWP.



**ASX** means ASX Limited ABN 98 008 624 691.

**Associate** has the meaning given in section 11 of the Corporations Act.

**Associated** means, when used to describe the relationship between:

- a. an Inlet Station and an Inlet Point, that the Inlet Station is used to measure Gas flows and other parameters at the Inlet Point; and
- b. an Outlet Station and an Outlet Point, that the Outlet Station is used to measure Gas flows and other parameters at the Outlet Point.

**Bank Bill Rate** means, for the day of calculation, the average mid rate for bills having a tenor closest to 90 days, as displayed on the "BBSW" page of the Reuters Monitor System on that day. However, if the average mid rate is not displayed by 10:30am (Sydney time) on that Day, or if it is displayed but there is an obvious error in that rate, Bank Bill Rate means the rate (expressed as a yield to maturity) set by the Owner in good faith and acting reasonably at approximately 10:30am on that day, having regard, to the extent possible, to the mid rate of the rates otherwise bid and offered for bills of that tenor at or around that time (including any displayed on the "BBSY" page of the Reuters Monitor System).

**Base Tariff** is the amount described as such in Schedule 1 as adjusted in accordance with clause 16.4.

**Capacity** means:

- a. at an Inlet Point - the capacity of the WAWP to take delivery at and to transport Gas from that Inlet Point; and
- b. at an Outlet Point - the capacity of the WAWP to transport and deliver Gas to that Outlet Point,

and must be expressed in TJ/d. Unless otherwise expressly stated, a reference in this Contract to Capacity is a reference to Capacity averaged across a Gas Day.

**Capacity End Date** has the meaning set out in the Details.

**Capacity Reservation Charge** means 10% of the Base Tariff from time to time.

**Capacity Start Date** has the meaning set out in the Details.

**Capacity Service** means the service offered by the Owner on the WAWP by which access to Gas Transmission Capacity is provided under this Contract.

**CAPL** means Chevron (Australia) Pty Limited ABN 29 086 197 757.

**CAPL Shipper Contract** means the gas transportation agreement between the Owner, DBP Development Group Pty Limited and CAPL dated 2 September 2013.

**Carbon Cost** means any cost arising in relation to the management of and complying with any obligations or liabilities that may arise under any Law in relation to greenhouse gas emissions. Such costs may include the costs reasonably incurred by the Owner of actions taken by it to reduce greenhouse gas emissions or mitigate their effect and the costs incurred in acquiring and disposing of or otherwise trading emissions permits, but do not include any shortfall charges or late payment penalties imposed on the Owner for failing to discharge all of its liabilities by the due dates prescribed in any Law under which or because of whose operation the Carbon Cost arises.

**Charges** means the Commodity Charge, the Capacity Reservation Charge and Other Charges.

**Commodity Charge** means the Base Tariff at any time minus the Capacity Reservation Charge at that time.

**Confidential Information** has the meaning given in clause 22.1.

**Contract** means this contract as revoked, substituted or amended from time to time, including the Schedules attached hereto.

**Contract Year** means the period from the Capacity Start Date until 31 December in the same calendar year and thereafter the period commencing 1 January in a calendar year and ending on 31 December in the same calendar year, with the last Contract Year ending on the earlier of the Capacity End Date and the sooner termination of this Contract.

**Control** has the meaning given in the Corporations Act.

**Controller** has the meaning given in the Corporations Act.

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

**Corresponding Inlet Point** means:

- a. in the case of Outlet Point WO-02 (TGS) — Inlet Point WI-02 (CS2); and
- b. in the case of Outlet Point WO-01 (CS2) — Inlet Point WI-01 (TGS).

**Corresponding Outlet Point** means:

- a. in the case of Inlet Point WI-02 (CS2) — Outlet Point WO-02 (TGS); and
- b. in the case of Inlet Point WI-01 (TGS) — Outlet Point WO-01 (CS2).

**CPI** means the Consumer Price Index (All Groups) for Perth, Western Australia, as published for each quarter by the Australian Bureau of Statistics or, if the Consumer Price Index (All Groups) for Perth ceases to be published, such alternative index as the Owner as a Reasonable and Prudent Person may determine.

**CRS** means the electronic customer reporting system controlled by DBNGP (WA) Nominees Pty Ltd ABN 78 081 609 289 and to which the Owner has access.

**CS2** means Compressor Station No. 2 on the DBNGP.

**Cubic Metre** or m<sup>3</sup> means, in respect of Gas, a cubic metre of Gas measured at MSC.

**Curtail** means reduce, interrupt or stop, or any combination of them, completely or in part.

**Daily Imbalance** means, for a Gas Day for each Inlet Point and its Corresponding Outlet Point, the Shipper's Total Inlet Quantity at that Inlet Point minus the Shipper's Total Outlet Quantity for that Gas Day for the Corresponding Outlet Point.

**Daily Nomination** means:

- a. in respect of a Capacity Service at an Inlet Point on a Gas Day - the Capacity for the quantity of Gas that the Shipper is scheduled to Deliver to the Owner at the Inlet Point on that Gas Day under that Capacity Service; and
- b. in respect of a Capacity Service at an Outlet Point on a Gas Day - the Capacity for the quantity of Gas that the Shipper is scheduled to Receive from the Owner at the Outlet Point on that Gas Day under that Capacity Service,

and in each case as scheduled under clause 8, and includes the Capacity for a revised quantity of Gas scheduled under a Renomination process.

**DBNGP** means the Dampier to Bunbury Natural Gas Pipeline, being the gas transmission pipeline system that runs between Dampier and Bunbury in Western Australia, operated (as at the Execution Date) by the DBNGP Operator.

**DBNGP Operator** means DBNGP (WA) Transmission Pty Ltd ABN 69 081 609 190.

**DBNGP Shipper Contract** means the agreement entered into between the DBNGP Operator, DBNGP (WA) Nominees Pty Ltd in its capacity as trustee of the DBNGP WA Pipeline Trust ABN 78 081 609 289 and the Shipper for transportation of Gas on the DBNGP, that enables delivery and receipt of Gas at CS2.

**Deliver** means to deliver or supply Gas and includes Gas deemed by this Contract to be delivered or supplied at an Inlet Point or Outlet Point.

**Derived Variable** means a value computed by electronic, analogue or digital means from primary measurements or other derived variables or a combination of both.

**DIHL** means DUET Investment Holdings Pty Limited ABN 22 120 456 573 and its Related Bodies Corporate.

**Direct Damage** means loss or damage which is not Indirect Damage.

**Dispute** means any dispute or difference concerning:

- a. anything contained in or arising out of; or
- b. the rights, obligations, duties or liabilities of a Party under,
- c. this Contract and includes any issue which a provision of this Contract contemplates may be referred to dispute resolution under clause 20.

**Environmental and Safety Law** means a Law relating to environmental, building, construction, engineering, planning, health, safety or occupational health and safety matters.

**Equity** means the body of law referred to as equity in section 24 of the Supreme Court Act 1935 (WA).

**Excess Imbalance Charge** has the meaning given in clause 9.5.

**Excess Imbalance Rate** is the amount so described in Schedule 1.

**Execution Date** means the date on which the last of the parties to do so executes this Contract.

**Existing Station** means:

- a. an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point; or
- b. an Inlet Station Associated with an Inlet Point or an Outlet Station Associated with an Outlet Point that,

as at the Capacity Start Date.

**Force Majeure** means any event or circumstance not within a Party's control and which the Party, by the exercise of the standards of a Reasonable and Prudent Person, is not able to prevent or overcome, including (provided the foregoing tests are satisfied):

- a. acts of God, including epidemics, land slides, lightning, earthquakes, fires, storms, floods, wash outs and cyclones;
- b. strikes, lock outs, stoppages, restraints of labour and other industrial disturbances;
- c. acts of the enemy including wars, blockades and insurrection;
- d. acts of terror, terrorism or terrorists;
- e. riots and civil disturbances;
- f. valid Laws of the Commonwealth or any Commonwealth statutory authority;
- g. valid Laws of the State or a local government or any State statutory authority;

- h. shortage of necessary equipment, materials or labour;
- i. refusal or delay in obtaining any necessary consent or approval from any Commonwealth, State or local government or a Commonwealth or State statutory authority;
- j. unavoidable accidents involving, or break down of or loss or damage to, any plant, equipment, materials or facilities necessary for the Party's operations;
- k. any WAWP shutdown or interruption which is validly required or directed by any Commonwealth, State or local government agency or any Commonwealth or State statutory authority having authority to so require or direct;
- l. any WAWP shutdown or interruption required to conform with design or regulatory limits on WAWP facilities, whether arising due to environmental conditions or circumstances or otherwise;
- m. WAWP ruptures; and
- n. collisions or accidents.

**Gas** means any naturally occurring gas or mixture of gases, intended for use:

- a. as a fuel; or
- b. in any chemical process.

**Gas Day** means the period starting at 08:00 hours on a day and ending at 08:00 hours on the following day and the date of a Gas Day is the date on which it commences.

**Gas Hour** means a period of 60 minutes, commencing and ending on the hour.

**Gas Month** means the period starting at 08:00 hours on the first day of a calendar month and ending at 08:00 hours on the first day of the following calendar month.

**Gas Transmission Capacity** means the capacity of the WAWP to transport Gas.

**Gas Year** means the period starting at 08:00 hours on 1 January and ending at 08:00 hours on the following 1 January.

**Good Gas Industry Practice** means the practices, methods and acts engaged in or approved by a firm or body corporate which, in the conduct of its undertaking, exercises that degree of due diligence, prudence and foresight reasonably and ordinarily exercised by skilled and experienced persons engaged in providing services to the Australian gas industry under the same or similar circumstances and conditions, and includes complying with the terms of this Contract and taking reasonable steps to ensure that:

- a. manufacturers' instructions and operating manuals are complied with;

- b. adequate materials, resources and supplies are available at the necessary places under normal conditions associated with existing operations;
- c. sufficient experienced and trained operating personnel are available to undertake its responsibilities under this Contract;
- d. appropriate monitoring and testing is carried out to ensure that the equipment will function properly under normal and emergency conditions;
- e. equipment is operated and maintained in accordance with any Laws applicable to that equipment;
- f. in accordance with all applicable Laws:
  - i. it acts in a sound and workmanlike manner;
  - ii. it acts with due skill, care and applying standards required or accepted by a company experienced in the delivery of similar works and the provision of similar services;
  - iii. it acts with due expedition and without unnecessary or unreasonable delays; and
  - iv. it acts in a manner which allows for the work to be efficiently and cost-effectively performed with due regard to safety.

**Governmental Authority** means any government or governmental, semi-governmental, administrative, fiscal or judicial body, responsible minister, department, office, commission, delegate, authority, instrumentality, tribunal, board, agency, entity or organ of government, whether federal, state, territorial or local, statutory or otherwise.

**GST** means GST as that term is defined in the GST Law and as imposed by the GST Law.

**GST Law** means A New Tax System (Goods and Services Tax) Act 1999 (Cth).

**Higher Heating Value** means the amount of heat energy (measured in megajoules) produced by the complete combustion of one Cubic Metre of dry Gas with air of the same temperature and pressure, when the products of combustion are cooled to the initial temperature of the Gas and air and when all water formed by combustion is condensed to the liquid state, corrected to a water - vapour free basis and expressed at MSC, and determined using ISO 6974 for the analysis of natural Gas and using ISO 6976 for the calculations from that analysis.

**Independent Expert** means an expert chosen in accordance with the procedure referred to in clause 20.

**Indirect Damage** means, in respect of a person:

- a. any indirect loss or damage suffered by that person, however caused, including any:
  - b. consequential loss or damage;
  - c. loss of (or loss of anticipated) use, production, revenue, income, profits, business and savings; or
  - d. business interruption,
- whether or not the indirect loss or damage was foreseeable; and
- e. any liability of that person to any other person, or any claim, demand, action or proceeding brought against that person by any other person, and any costs or expenses in connection with the claim, demand, action or proceeding.

**Inert Gases** means any one or any mixture of helium, neon, argon, krypton, xenon, radon, nitrogen and carbon dioxide.

**Inlet Metering Equipment** means the Metering Equipment installed at an Inlet Point.

**Inlet Point** means an inlet point on the WAWP and, where the context requires, means the point referred to in clause 3.3(a) at which the Shipper has Contracted Capacity from time to time.

**Inlet Point Operating Specifications** means the Operating Specifications specified in Item 1 of Schedule 2.

**Inlet Station** means the Metering Equipment site Associated with an Inlet Point, and includes:

- a. any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement and telemetry;
- b. all standby, emergency and safety facilities; and
- c. all ancillary equipment and services.

**Insolvency Event** means, in respect of a Party (the **first person**) any one or more of:

- a. any execution or other process of any court or authority being issued against or levied upon any material part of the first person's property or assets being returned wholly or partly unsatisfied;
- b. an order being made or a resolution being passed for the winding up or dissolution without winding up of the first person otherwise than for the purpose of reconstruction or amalgamation under a scheme to which the other Party has given consent;

- c. a Controller being appointed in respect of the whole or a material part of the first person's property, undertaking or assets;
- d. the first person entering into any arrangement, reconstruction or composition with or for the benefit of its creditors;
- e. an administrator of the first person being appointed or the board of directors of the first person passing a resolution to the effect of that specified in section 436A(1) of the Corporations Act;
- f. the first person failing (as defined by section 459F of the Corporations Act) to comply with a statutory demand for an amount in excess of \$1 million; or
- g. an event having a substantially similar effect to an event described in any of paragraphs (a) to (f) (inclusive) which happens in connection with the first person under the law of any jurisdiction.

**ISO** means an International Standards Organisation standard.

**Law** means any statute, subsidiary legislation, ordinance, code, by-law, local law, official directive, order, instrument, undertaking, obligation or applicable judicial, administrative or regulatory decree, judgment or order and includes:

- a. the terms and conditions of any licence, permit, consent, certificate, authority, approval or assurance or bond or similar requirements issued under any of the things referred to immediately above; and
- b. all applicable standards and obligations under the common law and Equity.

**Load Characteristics** means the relationships between Gas flow and time.

**Maintain** includes, where necessary, renew or replace.

**Major Works** means any enhancement, expansion, connection, pigging or substantial work that the Owner needs to undertake on the WAWP and that:

- a. cannot reasonably be scheduled at a time when it will not affect Gas Transmission Capacity; and
- b. by its nature or magnitude would require a Reasonable and Prudent Person to wholly or partially reduce Gas Transmission Capacity.

**Maximum Interruptible Capacity** has the meaning in clause 3.3.

**Metering Equipment** means all equipment used to measure either or both the physical quantity or quality of Gas entering the WAWP at an Inlet Point or exiting the WAWP at an Outlet Point and all ancillary equipment required to compute Derived Variables and to produce printed reports at the Inlet Station or Outlet Station and to test and Maintain the reliability and calibration accuracy of that equipment (including any



metering facilities or equipment that are or could be used for proving, testing and calibration of the equipment).

**MSC** means metric standard conditions, being a pressure of 101.325 kPa (absolute) and a temperature of 15°C.

**Multi-shipper Agreement** means an agreement under clause 6.2.

**Multi-shipper Inlet Point** means an Inlet Point at which more than one shipper Delivers Gas to the Owner.

**Multi-shipper Outlet Point** means an Outlet Point at which more than one shipper Receives Gas from the Owner.

**Nominated Day** means a Gas Day in respect of which a Nomination is made.

**Nominated Inlet Point** means an Inlet Point specified in a Nomination as one at which the Shipper proposes to Deliver Gas to the Owner during the Nominated Day.

**Nominated Outlet Point** means an Outlet Point specified in a Nomination as one at which the Shipper proposes to Receive Gas from the Owner during the Nominated Day.

**Nominations** means a nomination for Delivery or Receipt of Gas at an Inlet Point or an Outlet Point in accordance with clause 8 and includes Deemed Nominations under clause 8.2.

**Notice** includes a Tax Invoice, statement, demand, consent, request, application, notification and any other written communication, and includes such a notice communicated by means of facsimile or (if the Parties so agree) by the CRS.

**Operate** includes to Maintain, test, or repair.

**Operating Specification** means the Gas quality specification specified in Item 1 of Schedule 2 and includes each component of the specification.

**Operationally Feasible** means operationally feasible in the Owner's opinion (acting as a Reasonable and Prudent Person) in the circumstances prevailing at the relevant time including:

- a. the configuration and status of the WAWP at the relevant time;
- b. the individual and collective Reserved Capacities and Load Characteristics of all shippers;
- c. Gas Transmission Capacity generally; and
- d. the Owner's relevant entitlements and obligations under any contract or written Law.

**Outlet Metering Equipment** means the Metering Equipment installed at an Outlet Point.

**Outlet Point** means an outlet point on the WAWP and, where the context requires, means the point referred to in clause 3.3(b) at which the Shipper has Contracted Capacity from time to time.

**Owner** means DBP Development Group Nominees Pty Limited ABN 99 153 397 632 as Trustee of the DBP Development Group Trust (ABN 40 942 585 956) and includes its successors and permitted assigns.

**Owner Default Notice** has the meaning given in clause 18.6.

**Owner Entity** means the Owner, all of the Owner's Related Bodies Corporate and all entities Controlled by any of the foregoing.

**Other Charges** has the meaning given in Schedule 1.

**Outlet Metering Equipment** means Metering Equipment Metering Equipment installed at an outlet Point.

**Outlet Point** means an outlet point on the WAWP and, where the context requires, means a flange, joint or other point referred to in clause 3.3(b) at which the Shipper has Contracted Capacity from time to time.

**Outlet Point Operating Specifications** means the Operating Specifications specified in Item 1 of Schedule 2.

**Outlet Station** means either a Gate Station or the Metering Equipment site associated with an Outlet Point, and includes any facilities installed at the site to perform overpressure protection, reverse flow protection, excessive flow protection, Gas quality monitoring, Gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services.

**Out-of-Specification Gas** means Gas which does not comply with one or more of the temperature or pressure specifications in this Contract or with one or more components of the Operating Specification, or where relevant with clause 7.2 or clause 7.3 (as the case requires).

**Party** means the Owner or the Shipper.

**Period** means, in respect of the Shipper's Capacity, a Gas Month for which the Shipper's Capacity is quantified.

**Period of Supply** means in respect of particular Contracted Capacity the time period between:

- a. the relevant Capacity Start Date; and
- b. the relevant Capacity End Date.

**Pipeline Trust** means the DBP Development Group Trust ABN 40 942 585 956.

**Planned Maintenance** means maintenance of the WAWP which is scheduled in advance and of which the Shipper is given reasonable, and in any event not less than 3 Gas Days', written notice.

**Possession** includes custody, control, and an immediate right to possession, custody, or control.

**Prescribed Interest Rate** means the Bank Bill Rate plus an annual interest rate of 3 percent per annum.

**Previous Verification** means the Verification at which the Metering Equipment was last found to be Accurate.

**Priority Plan** means the regime governing Interruptions to Capacity Services and priority of Nominations, set out in Schedule 3.

**Producer** means a producer or supplier of Gas with whom the Shipper has entered into a Gas supply contract or contracts under which Gas is or will be Delivered at an Inlet Point.

**Reasonable and Prudent Person** means a person acting in good faith with the intention of performing his or her contractual obligations and who in so doing and in the general conduct of his or her undertaking exercises that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced person complying with recognised standards and applicable Laws engaged in the same type of undertaking under the same or similar circumstances and conditions.

**Receive** means to accept or receive Gas into or from the WAWP (as the case requires) and includes Gas deemed by this Contract to be received at an Inlet Point or Outlet Point (including a Multi-shipper Inlet Point or Multi-shipper Outlet Point).

**Related Body Corporate** has the meaning given in the Corporations Act as at 30 June 2014.

**Related Entity** has the meaning given to that expression in the Corporations Act as at 30 June 2014.

**Relative Density** is expressed at MSC and means the molar mass of a Gas in g/mol divided by 28.9641 g/mol (being the molar mass of dry air as defined in ISO 6976) and corrected for the effect of deviation from ideal Gas behaviour upon both air and Gas.

**Relevant Company** means the direct and indirect shareholders of the Owner, service providers to the Owner and all Related Bodies Corporate of those entities.

**Renomination** has the meaning given in clause 8.6.

**shipper** means any person who, from time to time, has a contract with the Owner for access to Gas Transmission Capacity, and includes the Shipper.

**Shipper** means the party so described where the parties to this Contract are named on its first page.

**Shipper's Contracted Capacity** has the meaning given in clause 3.3.

**Shipper Default Notice** has the meaning given in clause 18.2.

**SSC** means the terms and conditions of the Standard Shipper Agreement (**SSC**) (also known as Shipper Contract – Full Haul T1 Dampier to Bunbury Natural Gas Pipeline) as published at the date of this Agreement on the DBNGP Operator's website at <http://www.dbp.net.au/wp-content/uploads/2017/09/DBNGP-T1-Standard-Shipper-Contract-February-2015.pdf>

**State** means the State of Western Australia.

**System Operator** has the meaning given in clause 2.4(a).

**Tax** means a tax, levy, charge, impost, fee, deduction, withholding or duty of any nature imposed by a Governmental Authority (other than income tax, capital gains tax, fines or penalties).

**Tax Change** has the meaning given in clause 16.5.

**Tax Invoice** has the meaning given to it in the GST Law.

**Technical Matter** has the meaning given to through the process ascribed to dispute resolution in clause 20.

**Terminated Capacity** has the meaning given in clause 18.10(d).

**TGS Facility** means the means the Tubridgi Gas Storage Facility owned and operated by DDG Tubridgi Pty Limited the subject of petroleum production licence L9 issued under the Petroleum and Geothermal Energy Resources Act 1967 (WA).

**TJ/d** means terajoules per Gas Day.

**Total Current Physical Capacity** means the total physical Gas throughput Capacity of the WAWP at the relevant time (having regard to all associated facilities) of an Inlet Point or an Outlet Point and operating within its technical design parameters, as the case requires, in the Owner's opinion as a Reasonable and Prudent Person.

**Total Inlet Quantity** means the total quantity (across all Inlet Points) of Gas Delivered to the Owner by the Shipper on a Gas Day across all contracts.

**Total Outlet Quantity** means the total quantity (across all Outlet Points) of Gas Received by the Shipper from the Owner on a Gas Day across all contracts.

**Tranche A Capacity Service** means the gas transmission services provided on WAWP by the Owner to DDG Tubridgi Pty Limited under the Capacity Service Contract - Wheatstone Lateral and Ashburton West to CS2 Pipeline System dated 12 May 2017.

**Tranche B Capacity Service** has the meaning in clause 3.2.

**Trust** means the DBP Development Group Trust ABN 40 942 585 956.

**Verification** means the process of testing all Metering Equipment and all components of Metering Equipment to establish its calibration accuracy.

**WAWP** means the Gas transmission pipeline system that runs between CS2 on the DBNGP to Ashburton West near Onslow in Western Australia, as expanded or extended from time to time.

**Working Day** means any Monday, Tuesday, Wednesday, Thursday or Friday which is not gazetted as a public holiday in the Perth metropolitan area.

## 2. GENERAL

### 2.1 Construction generally

In the construction of this Contract, unless the context requires otherwise:

- (a) the provisions of this Contract are intended to be applied to the circumstances as they arise from time to time;
- (b) a reference to a clause or Schedule is a reference to a clause or Schedule of this Contract;
- (c) words indicating the singular number include the plural number and vice versa;
- (d) words of one gender include all other genders;
- (e) words indicating persons include natural persons, bodies corporate and unincorporated associations;
- (f) a reference to any statutory Law extends to and includes any regulations under that Law and any amendment of, modification of, or substitution for, that Law;
- (g) a reference to any contract or agreement is a reference to that contract or agreement as amended, varied, novated or substituted from time to time;
- (h) references to dollars or \$ are references to Australian dollars;
- (i) a reference to a time and date in connection with the performance of an obligation by a Party is a reference to the time and date in Perth, Western Australia, even if the obligation must be performed elsewhere;
- (j) all time is expressed in a 24-hour format, with each day (but not a Gas Day) commencing at 00:00 hours and ending at 24:00 hours;

- (k) unless specified otherwise, reference to a quantity of Gas is a reference to that quantity of Gas measured in GJ;
- (l) unless otherwise indicated, all units in this Contract are Australian legal units of measurement under the *National Measurement Act 1960* (Cth);
- (m) unless the contrary intention appears, the interpretation provisions of the *Interpretation Act 1984* (WA) apply to this Contract;
- (n) any grammatical or linguistic variation of a defined word or expression has a corresponding meaning;
- (o) any specific reference to or listing of items following the words including, for example or such as is without limitation and does not exclude application to other items, whether or not in the same class, category or genus as any specified or listed items;
- (p) under includes by, by virtue of, pursuant to and in accordance with; and
- (q) a reference to rights, entitlements, obligations or terms “materially equivalent” or the “same” (in comparison to rights, entitlements, obligations or terms in this Contract or in comparison to other rights, entitlements, obligations or terms (as the case requires)) or any similar expressions is deemed to mean rights, entitlements, obligations or terms that are, in the opinion of a Reasonable and Prudent Person, materially equivalent to the relevant rights, entitlements, obligations or terms in this Contract or those other rights, entitlements, obligations or terms (as the case requires).

## 2.2 Headings

Headings are inserted for convenience and do not affect the interpretation of this Contract.

## 2.3 Rounding to a certain number

Any number calculated under this Contract which exceeds six decimal places must be rounded to six decimal places. For the purposes of such rounding, if the digit at the seventh decimal place is:

- (a) between zero and four (inclusive), the number must be rounded down to the nearest sixth decimal place; and
- (b) between five and nine (inclusive), the number must be rounded up to the nearest sixth decimal place.

## 2.4 System Operator

- (a) The Owner's rights and powers under this Contract may be delegated to a contractor (**System Operator**) who is entitled to exercise, on behalf of the Owner, all such rights and powers conferred on the Owner. The System Operator at the date of this Contract is DBP Development Group Pty Limited ABN 31 153 396 911.

- (b) The Owner may from time to time give notice in writing to the Shipper of, or of any change in, the details of the System Operator.
- (c) Any act, matter or thing done by the System Operator in respect of this Contract or in the performance of obligations related to this Contract in either its own name or in the name of the Owner is deemed to have been done by the Owner and the Owner agrees to ratify and confirm whatsoever the System Operator does or causes to be done by virtue of, or purportedly by virtue of, the powers contained in this Contract.
- (d) Without limiting clause 2.4(c) any communication or notice given, or document signed, by the System Operator in respect of this Contract is deemed to have been given or signed by the Owner and will bind the Owner. Similarly, any communication, notice or document given to the System Operator in respect of this Contract is deemed to have been given to the Owner and will bind the Owner.

### 3. CAPACITY SERVICE

#### 3.1 Owner to provide Capacity Service to Shipper

During the Period of Supply, the Owner will provide the Tranche B Capacity Service to the Shipper and the Shipper agrees to accept the Tranche B Capacity Service from the Owner on the terms and conditions of this Contract.

#### 3.2 Tranche B Capacity Service

The Tranche B Capacity Service is a fully interruptible forward haul and back haul transportation service as follows:

- (a) from Inlet Point WI-02 (CS2) to its Corresponding Outlet Point (being TGS WO-02) (**Back Haul Service**); and
- (b) from Inlet Point WI-01 (TGS) to its Corresponding Outlet Point (being TGS WO-01) (**Forward Haul Service**).

On any Gas Day, the Shipper is only entitled to nominate for either the Back Haul Service or the Forward Haul Service.

#### 3.3 Contracted Capacity

Subject to the terms and conditions of this Contract, the Owner will provide the Shipper with the Tranche B Capacity Service and the Shipper agrees to accept the Tranche B Capacity Service so that the maximum capacity of the Tranche B Capacity Service that the Shipper may accept on each Gas Day within a Period under this Contract:

- (a) at an Inlet Point specified in the Details - is the amount of Tranche B Capacity Service specified for that Inlet Point in the Details; and
- (b) at an Outlet Point specified in the Details - is the amount of Tranche B Capacity Service specified for that Outlet Point in the Details,

in each case, the “**Maximum Interruptible Capacity**”.

### **3.4 CAPL and Tranche A Capacity Service Priority**

The Shipper's entitlement to access to Gas Transmission Capacity under this Contract is subject in all respects to the priority of the:

- (a) delivery;
- (b) nomination; and
- (c) curtailment,

rights of shippers (i) under the CAPL Shipper Contract; and (ii) under the Tranche A Capacity Service. To the extent that the Owner may require to interrupt the Shipper's delivery or nomination rights under this Contract in order to ensure that Owner and DBP Development Group Pty Limited comply in all respects with those priority agreements, it may do so without incurring any liability whatsoever to the Shipper.

## **4. DURATION OF THE CONTRACT**

### **4.1 Term**

Subject to the terms and conditions of this Contract, this Agreement commences on the Execution Date and ends on the Capacity End Date, unless terminated earlier by the Shipper under this Agreement or extended by agreement in writing by the Parties.

## **5. RECEIVING AND DELIVERING GAS**

### **5.1 Shipper may Deliver and Receive Gas**

Subject to any other provision of this Contract, the Shipper, on each Gas Day during the Period of Supply:

- (a) may Deliver to the Owner at each Inlet Point a quantity of Gas up to the Shipper's Contracted Capacity at that Inlet Point; and
- (b) may Receive from the Owner at each Outlet Point a quantity of Gas up to the Shipper's Contracted Capacity at that Outlet Point.

### **5.2 Owner must Receive and Deliver Gas**

Subject to any other provision of this Contract, the Owner, on each Gas Day during the Period of Supply:

- (a) must Receive at the Nominated Inlet Points the quantity of Gas Delivered by the Shipper up to its Delivery entitlement under clause 5.1(a) and
- (b) must Deliver to the Shipper at the Nominated Outlet Points the quantity of Gas that the Shipper is entitled Receive from the Owner under clause 5.1(b).



### **5.3 Owner may refuse to Receive Gas**

In addition to any other rights and remedies that may be available to it under this Contract or under any Law, the Owner may, without prior notice to the Shipper, refuse to Receive Gas from the Shipper at an Inlet Point for any reason.

### **5.4 Notification of refusal to Receive Gas**

Without affecting the Owner's rights under clause 5.3, the Owner must:

- (a) use reasonable endeavours to give the Shipper advance notice which is reasonable in the circumstances of any impending refusal to Receive Gas; and
- (b) if it does not give the Shipper advance notice under clause 5.4(a) of a refusal to Receive Gas, notify the Shipper of that refusal as soon as practicable after that refusal.

### **5.5 No liability for refusal to Receive Gas**

The Owner is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Receive Gas under clause 5.3.

### **5.6 Owner may refuse to Deliver Gas**

In addition to any other rights and remedies that may be available to it under this Contract or under any Law, the Owner may refuse to Deliver Gas to the Shipper at an Outlet Point for any reason.

### **5.7 Notification of refusal to Deliver Gas**

When the Owner refuses to Deliver Gas to the Shipper under clause 5.6, the Owner must:

- (a) use reasonable endeavours to give the Shipper advance notice which is reasonable in the circumstances of any impending refusal to Deliver Gas; and
- (b) if it does not give the Shipper advance notice under clause 5.7(a) of a refusal to Deliver Gas, notify the Shipper of that refusal as soon as practicable after that refusal.

### **5.8 No liability for refusal to Deliver Gas**

The Owner is not liable for any Direct Damage or Indirect Damage caused by or arising out of any refusal to Deliver Gas under clause 5.6.

## **6. INLET POINTS AND OUTLET POINTS**

### **6.1 Inlet Points and Outlet Points**

The Inlet Points and the Outlet Points for this Contract are set out in the Details.

### **6.2 Multi-shipper Agreement**

If there are multiple shippers with Tranche B Service Capacity at an Inlet Point or Outlet Point, absent a Multi-shipper Agreement between shippers with Tranche B Service Capacity, the Owner will allocate Gas Delivered to or Received from that Inlet Point or Outlet Point on a first in time basis for available Tranche B Service Capacity.

If requested the Shipper will enter into a written agreement with the Owner regarding operation of Multi-shipper Inlet Point and Multi-shipper Outlet Points that allocates gas receipts and deliveries at Inlet Points and Outlet Points, recognising the priority of deliveries as set out in the Priority Plan.

### **6.3 Design and installation of Inlet Stations and Outlet Stations**

The Owner is responsible for ensuring that the Inlet Points and the Outlet Points meet the requirements set out in clauses 6.4(a) to 6.4(i), except to the extent that the Shipper owns an Outlet Point, in which case the Shipper is responsible for ensuring that the relevant Outlet Point meets the requirements set out in clauses 6.4(a) to 6.4(i).

### **6.4 Requirements relating to Inlet Stations and Outlet Stations**

- (a) The site for an Inlet Station or Outlet Station must:
    - (i) be within a security fenced enclosure;
    - (ii) provide suitable vehicular access and an alternative means of personnel access;
    - (iii) provide adequate space for the installation of all equipment; and
    - (iv) have a concrete, sealed, or gravel surface to enable access in all weather conditions.
  - (b) Every Inlet Station or Outlet Station must provide a means, to a standard acceptable to a Reasonable and Prudent Person, of automatically stopping or restricting Gas flow in the event of any excessive pressure upstream of, or any failure, leak or rupture within or downstream of, the Inlet Station or Outlet Station.
  - (c) The Owner, whenever it is permitted by any written Law or a contract to stop or reduce Gas flow (and whether or not there has been a failure, leak or rupture), may utilise for that purpose any mechanism installed under clause 6.4(b).
  - (d) The Owner may at any time, for, or in anticipation of, the purposes of clause 6.4(b) make any necessary connections, modifications or additions to any mechanism installed under clause 6.4(b) to enable it to be utilised for the purposes of clause 6.4(c).
  - (e) An Inlet Station and an outlet Station must, if the Owner as a Reasonable and Prudent Person at any time determines it to be necessary, include filters or separators, or both, to a standard acceptable to a Reasonable and Prudent Person.
  - (f) For the avoidance of doubt neither filters nor separators may be regarded as Metering Equipment.
-

- (g) All facilities upstream of an Inlet Point or downstream from an Outlet Point must be electrically isolated from the WAWP by an isolating joint or flange located either:
  - (i) at the Inlet Point or Outlet Point; or
  - (ii) sufficiently close to the Inlet Point or Outlet Point so as to achieve the same operational effect as if the joint or flange were located in accordance with clause 6.4(g)(i),
- (h) which joint or flange must be fitted with a surge diverter or other approved means of discharging excessive potentials.
- (i) All facilities at an Inlet Station or Outlet Station must be connected to an effective earthing system of a type acceptable to a Reasonable and Prudent Person.
- (j) Any new equipment installed at an Inlet Station or Outlet Station must be compatible with existing equipment and systems.

## 7. OPERATING SPECIFICATIONS

### 7.1 Gas must comply with Gas specifications

Gas Delivered by the Shipper to the Owner at an Inlet Point or Delivered to the Shipper by the Owner at an Outlet Point must comply with the relevant column in the Gas specifications set out in Item 1 of Schedule 2.

### 7.2 Gas to be free from certain substances

Gas Delivered by the Shipper to the Owner at an Inlet Point or Delivered to the Shipper by the Owner at an Outlet Point must be free, by normal commercial standards, from dust and other solid or liquid matters, waxes, gums and gum forming constituents, aromatic hydrocarbons, hydrogen, mercury and any other substance or thing which might cause injury to or interfere with the proper operation of any equipment through which it flows.

### 7.3 Gas to be free from objectionable odours

Gas Delivered by the Shipper to the Owner at an Inlet Point must be free, by normal commercial standards, from objectionable odours.

### 7.4 Gas temperature and pressure

- (a) The minimum and maximum temperatures and the minimum and maximum pressures at which the Shipper may Deliver Gas to the Owner at the Inlet Points, and the Owner may Deliver Gas to the Shipper at the Outlet Points, are those set out in Item 2 of Schedule 2.
- (b) The Parties may at any time agree in writing to vary any one or more of the pressures and temperatures set out in Item 2 of Schedule 2.

- (c) The Shipper acknowledges that its Maximum Interruptible Capacity at each Inlet Point and Outlet Point is dependent upon the gas composition and temperature meeting the requirements set out in Schedule 2.

#### **7.5 Notice of Out-of-Specification Gas**

If either Party becomes aware that any Out-of-Specification Gas is to enter or has entered the WAWP at an Inlet Point or is to leave or has left the WAWP at an Outlet Point, it must as soon as reasonably practicable notify the other Party in accordance with clause 23.1(a).

#### **7.6 Owner and Shipper may refuse to Receive Out-of-Specification Gas**

Subject to any agreement under clauses 7.7 and 7.9 the Owner may at any time without penalty refuse to Receive from the Shipper at an Inlet Point any Out-of-Specification Gas.

#### **7.7 Owner may Receive Out-of-Specification Gas**

The Owner may, at its own risk, agree to Receive Out-of-Specification Gas from the Shipper at an Inlet Point on whatever terms and conditions (including as to pricing) that the Shipper and the Owner may agree. If the Owner agrees to Receive Out-of-Specification Gas at an Inlet Point at the request of the Shipper on any Gas Day, the Shipper is not entitled to refuse to accept delivery of the Out-of-Specification Gas at any Outlet Point on that Gas Day or the subsequent 7 Gas Days and is not entitled to any refund or claim under clause 7.9(b).

#### **7.8 Shipper's Liability for Out of Specification Gas**

If any Out-of-Specification Gas Delivered by or on behalf of the Shipper enters the WAWP without the Owner's agreement under clause 7.7:

- (a) the Shipper is liable to the Owner for any loss or damage arising in respect of the Out-of-Specification Gas; and
- (b) Without limitation on any of its other rights under any Law, the Owner is, to the extent necessary to allow it to deal with that entry of Out-of-Specification Gas:
  - (i) entitled to vent the Out-of-Specification Gas, and the Shipper is deemed not to have Delivered a quantity of Gas at the Inlet Point equivalent to the quantity of all Gas necessarily vented by the Owner; and
  - (ii) relieved of any obligation to Deliver Gas to the Shipper by an amount no greater than the quantity of Gas vented by the Owner under clause 7.8(b)(i) on the basis that the Shipper is deemed not to have Delivered that quantity of Gas at the Inlet Point.

#### **7.9 Shipper may Receive Out-of-Specification Gas**

- (a) The Shipper may at its own risk, agree to Receive Out-of-Specification Gas from the Owner at an Outlet Point, on whatever terms and conditions (including as to pricing) that the Shipper and the Owner may agree.

- (b) If any Out-of-Specification Gas is delivered to the Shipper at an Outlet Point without the Shipper's agreement under clause 7.9(a) then except to the extent that the Shipper caused the Gas in the WAWP to be Out-of-Specification Gas the Owner is liable to the Shipper for Direct Damage arising in respect of the Out-of-Specification Gas.

8. **NOMINATIONS**

8.1 **Use of CRS**

The Parties will use the DBNGP Operator’s CRS system for all communications regarding Nominations.

8.2 **Deemed Nominations**

Where the Shipper has a DBNGP Shipper Contract, in respect of nominations (**Nominations**) for a Gas Day (**Nominated Day**), if the Shipper and the Owner agree otherwise in writing, an Accepted Nomination or Accepted Excess Nomination or Accepted Renomination (collectively “Accepted Nomination” for the purpose of this clause) under the Shipper’s DNBGP Shipper Contract for Receipt of Gas on the DBNGP at Inlet Point CS2 or Delivery of Gas from the DBNGP at CS2 may be deemed to be an Accepted Nomination for the purposes of this Agreement as follows:

<i>Accepted Nomination</i>	<i>Deemed Accepted Nominations</i>
Delivery Nomination at CS2	WO-01 and WI-01
Receipt Nomination at CS2	WI-02 and WO-02

8.3 **Priority of Acceptance**

Priority will be given to Nominations in accordance with the order listed in the Priority Plan.

8.4 **Advance Nomination**

- (a) Shipper may nominate for the Tranche B Service up to the Maximum Interruptible Capacity on every Gas Day during the Period of Supply applicable to this Agreement, by notice to the Operator no later than 14:00 hours on the Gas Day before the Gas Day on which the Tranche B Service is required:
  - (i) the quantity of Gas that the Shipper requires to Deliver to the Operator at each Inlet Point, which, in aggregate must not be more than the Maximum Interruptible Capacity;
  - (ii) the quantity of Gas that the Shipper requires to Receive from the Operator at the Outlet Point, which must not be more than the Maximum Interruptible Capacity; and
  - (iii) the Gas Day on which the Interruptible Service is required (Nominated Day)

**(Advance Nomination).**

- (b) In addition to the information required under clause 5(a), each Nomination must set out for the Tranche B Service:
  - (i) the sum of the Nominations across all Inlet Points; and
  - (ii) the sum of the Nominations across all Outlet.
- (c) On a given Gas Day the sums of Inlet Point nominations and Outlet Point nominations under the Tranche B Service must be equal, except where Shipper seeks to reduce any Accumulated Imbalance.
- (d) If Shipper does not notify Owner of its Nomination in respect of a Gas Day, the Shipper is deemed to have given Nominations of zero for all Services.

**8.5 Acceptance of Nominations**

- (a) Owner, acting as a Reasonable and Prudent Person:
  - (i) must accept (in whole or in part) each Nomination to the extent that Contracted Capacity (as the case requires) is forecast to be available on the Nominated Day; and
  - (ii) may reject (in whole or in part) any Nomination to the extent that the Contracted Capacity (as the case requires) is forecast not to be available on the Nominated Day.
- (b) If Owner has not notified Shipper by 16:00 hours on the Gas Day before the Gas Day on which a Service is required that there is Contracted Capacity between the relevant Inlet Points and Outlet Points available on the Nominated Day, then the Nomination is deemed to be rejected.
- (c) If Owner rejects or is deemed to reject a Nomination, then:
  - (i) Owner has no liability whatsoever to Shipper for the rejection or deemed rejection; and
  - (ii) Shipper is not entitled to receive the relevant Service or Services for the relevant Gas Day.
- (d) If Owner accepts a Nomination (or part thereof), then it must give Shipper a notice (**Acceptance Notice**) before 16:00 hours on the Gas Day on which Owner received the Nomination stating the quantity of capacity that Owner will reserve for the provision of Services for:
  - (i) Receipt from Shipper into each Inlet Point for the Nominated Day; and
  - (ii) Delivery to Shipper at each Outlet Point for the Nominated Day.

**8.6 Shipper may give Renomination notice**

The Shipper may request a variation of its Daily Nomination for the Gas Day (**Renomination**) for one or more Inlet Points or for one or more Outlet Points, by giving notice to the Owner specifying the amount and duration (which may be any duration up to and including the balance of the Gas Day in respect of which the Renomination is made) of the requested variation at any time up to 21:00 on the relevant Gas Day.

#### **8.7 Scheduling of revised Daily Nominations**

If under clause 8.6 the Owner is requested to schedule the Capacity Service in respect of a revised Daily Nomination in response to the Shipper's Renomination, the Owner must use reasonable endeavours to effect that scheduling within 1 hour after the Renomination time.

#### **8.8 Renomination Priority**

The Owner is entitled to, without any liability to the Shipper other than under clause 13.4, interrupt any Capacity in a Tranche B Capacity Service whenever it is necessary to do so in order to satisfy any shipper's Renomination for Capacity in relation to a type of Capacity Service which has priority over the Tranche B Capacity Service according to the order of priority set out the Priority Plan.

#### **8.9 Default provision for Renomination process**

If any element of the Renomination procedure prescribed in this clause 8 is not completed within the time limit specified, then the Shipper's Daily Nominations are to remain unchanged (but if the Owner can reasonably continue and complete processing a Renomination after the expiry of the time limit in clause 8.7 it may do so).

### **9. IMBALANCES**

#### **9.1 Owner to maintain balance**

The Owner may do all things expected of a Reasonable and Prudent Person to maintain a balance between total Gas inputs to, and total Gas outputs from, the WAWP, including (subject to the provisions of this clause 9 and this Contract) restricting the quantity of Gas it Delivers to the Shipper at an Outlet Point, and restricting the quantity of Gas it Receives from the Shipper at the Corresponding Inlet Point, in accordance with this Contract.

#### **9.2 Shipper's Accumulated Imbalance**

At the end of any Gas Day, the Accumulated Imbalance is the Accumulated Imbalance at the end of the previous Gas Day plus the Shipper's Daily Imbalance on the Gas Day. The Accumulated Imbalance at the Capacity Start Date is zero.

#### **9.3 Notice of the Shipper's imbalances**

Before 11:00 hours on each Gas Day except the Capacity Start Date, the Owner must notify the Shipper of its Accumulated Imbalance and Daily Imbalance at the end of the preceding Gas Day (**Accumulated Imbalance Notice**).

#### 9.4 Accumulated Imbalance Limit

- (a) The Shipper's **Accumulated Imbalance Limit** for a Gas Day is 10% of the sum of the Shipper's Contracted Capacity across all of the Shipper's Capacity Services for that Gas Day.
- (b) If at any time the value of the Shipper's Accumulated Imbalance exceeds the Accumulated Imbalance Limit for the Gas Day just finished then, the Owner may either or both:
  - (i) issue a notice requiring the Shipper to reduce its imbalance by a minimum of 50% of the Accumulated Imbalance Limit and the Shipper must use best endeavours to comply immediately, or to procure immediate compliance, with the notice, so as to reduce the Shipper's Accumulated Imbalance to at least 50% of the Accumulated Imbalance Limit as soon as reasonably practicable; and
  - (ii) refuse to Receive Gas from the Shipper at an Inlet Point or refuse to Deliver Gas to the Shipper at an Outlet Point so as to reduce the absolute value of the Shipper's Accumulated Imbalance by a minimum of 50% of the Accumulated Imbalance Limit.

#### 9.5 Excess Imbalance Charge

- (a) If the absolute value of the Shipper's Accumulated Imbalance at the end of a Gas Day exceeds the Accumulated Imbalance Limit for the Gas Day just finished then the Shipper must pay an Excess Imbalance Charge at the Excess Imbalance Rate for each GJ of Gas in excess of the Shipper's Outer Accumulated Imbalance Limit in accordance with clause 17.
- (b) No Excess Imbalance Charge is payable in respect of that part (if any) of the imbalance that is attributable to:
  - (i) the Owner, for any reason not caused by the Shipper or any person supplying Gas to the Shipper, not Receiving from the Shipper at any Inlet Point a quantity of Gas equal to the Shipper's Daily Nomination for that Inlet Point; or
  - (ii) the Owner failing to provide the Shipper with a materially accurate Accumulated Imbalance Notice within the period set out in clause 9.3;

but in each case the Shipper's Daily Imbalance and Accumulated Imbalance must still be calculated for the Gas Day.

#### 9.6 Cashing out imbalances at end of Contract

- (a) The balancing process prescribed in this clause 9.6 is only to be undertaken at the Capacity End Date.
- (b) If, at the Capacity End Date, Shipper's Accumulated Imbalance is:
  - (i) a positive number, Owner must pay to Shipper the Average Fuel Gas Cost for that Gas;
  - (ii) a negative number, Shipper must pay to the Owner the Average Fuel Gas Cost for that Gas.
- (c) The **Average Fuel Gas Cost** is the average weighted fuel gas cost to the Owner for fuel gas supplied to the Owner by third parties over the 12 month period ending on the Capacity End Date.



## 10. **ADDITIONAL RIGHTS AND OBLIGATIONS OF OWNER**

### 10.1 **Commingling of Gas**

The Owner has the right to commingle Gas Delivered by the Shipper at an Inlet Point with other Gas in the WAWP during transportation and is entitled to Deliver different physical Gas to the Shipper at the Outlet Points from that received at the Inlet Points.

### 10.2 **Processing**

Subject to its obligations under this Contract, the Owner may (but is not obliged to) compress, cool, heat, clean and apply other processes to Gas during transportation acting as a Reasonable and Prudent Person consistent with its operation of the WAWP.

### 10.3 **Operation of Pipeline System**

- (a) In operating, maintaining or expanding the WAWP, the Owner must:
  - (i) comply with all its obligations under this Contract; and
  - (ii) use Good Gas Industry Practice.
- (b) Except as provided in clause 10.3(a) the Owner may decide the manner in which it will operate the WAWP.
- (c) In acting under this Contract, the Shipper must use Good Gas Industry Practice.

### 10.4 **Delivery of Gas**

The Owner may (but only if the Owner chooses to do so) satisfy its obligation to Deliver Gas to the Shipper by using a Gas pipeline other than the Ashburton Lateral, provided that:

- (a) the Owner meets its obligations under this Contract; and
- (b) there is no extra cost or risk to the Shipper in doing so.

## 11. **CONTROL, POSSESSION AND TITLE TO GAS**

### 11.1 **Warranty of Title**

- (a) The Shipper warrants that, at the time it Delivers Gas to the Owner at an Inlet Point, the Shipper has good title to the Gas free and clear of all liens, encumbrances and claims of any nature inconsistent with the Owner's operation of the WAWP.
- (b) Subject to clause 11.1(a) being true and correct at all times, the Owner warrants that at the time it Delivers Gas to the Shipper at an Outlet Point, the Owner has good title to the Gas free and clear of all liens, encumbrances and claims of any nature whatsoever.

### 11.2 **Control, Possession, Responsibility and Title of Shipper**

The Shipper warrants to the Owner at each relevant time that the Shipper:

- (a) is in Possession of the Gas immediately prior to its Delivery to the Owner at an Inlet Point and immediately after its Delivery to the Shipper at an Outlet Point; and
- (b) has legal responsibility and liability for Gas while it is within the Possession of the Shipper.

### **11.3 Title, Custody, Control and Responsibility of Owner**

- (a) The Owner:
  - (i) takes title to and has Possession of Gas from the Receipt of Gas from the Shipper at an Inlet Point until Delivery of Gas to the Shipper at an Outlet Point; and
  - (ii) has legal responsibility and liability for Gas while it is within the Owner's Possession.
- (b) The Owner must Deliver good title to Gas Delivered to the Shipper at an Outlet Point free and clear of all liens, encumbrances and claims of any nature whatsoever, and the Shipper takes title to Gas immediately after its Delivery to the Shipper at an Outlet Point.

### **11.4 Entitlements to Receive Gas**

- (a) Subject to clause 11.4(c), upon the transfer from the Shipper to the Owner of title to and possession of a quantity (in terajoules) of Gas Delivered at an Inlet Point, the Shipper becomes entitled to Receive Gas from the Owner at an Outlet Point.
- (b) The quantity of Gas that the Shipper becomes entitled to Receive in aggregate under clause 11.4(a) is a quantity equivalent (in terajoules) to the quantity of Gas Delivered at the Inlet Point.
- (c) Clauses 11.4(a) and 11.4(b) do not affect a provision of this Contract entitling the Owner to Curtail wholly or partially or interrupt the Shipper's use of Capacity or to refuse wholly or partially to Deliver Gas to the Shipper and do not affect the obligations of the Shipper to Deliver Gas and Receive Gas in such a manner as complies with this Contract.

## **12. METERING**

### **12.1 Application of clause 15 of the SSC**

The Parties agree that the provisions of clause 15.2 to 15.15 of the SSC apply to and are incorporated in this Agreement in connection with Metering obligations and rights of the Parties as though the Shipper and the Operator referred to in the SSC were the Shipper and the Owner referred to respectively under this Agreement.

## 13. CURTAILMENT

### 13.1 Owner's obligations and Curtailment principles

- (a) Subject always to clause 3.4, the Owner must use reasonable endeavours to minimise the magnitude and expected duration of any Curtailment of the Capacity Service.
- (b) A Curtailment may affect one an Inlet Point or an Outlet Point.
- (c) In respect of Tranche B Service Capacity, a Curtailment only arises where the Owner fails to Deliver or Receive the quantity of Gas notified to the Shipper in an Accepted Nomination.

### 13.2 Curtailment Generally

- (a) The Owner may Curtail the provision of the Capacity Services to the Shipper from time to time to the extent the Owner as a Reasonable and Prudent Person believes it is necessary to Curtail, for any reason.
- (b) Any Curtailment of the Shipper's Total Contracted Capacity must be conducted in accordance with the Priority Plan.
- (c) Where there are multiple Tranche B Capacity Service shippers with Accepted Nominations on a Gas Day, any Curtailment will be pro-rated across these services pro-rata to their Accepted Nominations.

### 13.3 Liability for Curtailment

Except as provided in clause 13.4, the Owner has no liability to the Shipper whatsoever for a Curtailment.

### 13.4 Refund of Capacity Reservation Charge

To the extent that the Shipper's Capacity Service is Curtailed for any reason other than:

- (a) an event of Force Majeure; or
- (b) Shipper negligence or default under this Contract,

the Shipper is entitled to a refund of the Capacity Reservation Charge in respect of the Capacity Curtailed, pro rata for the relevant period of the Gas Day over which the curtailment occurred, assuming a deemed even rate of Delivery or Receipt of Gas over the relevant Gas Day.

## 14. MAINTENANCE AND MAJOR WORKS

- (a) On or before 30 September of each Contract Year, the Owner (acting as a Reasonable and Prudent Person) must schedule Major Works and Planned

Maintenance for the WAWP for the Maintenance Year (***Annual WAWP Maintenance Schedule***).

- (b) At the Shipper's request, the Owner must issue a copy of the current Annual WAWP Maintenance Schedule to the Shipper.
- (c) At the Shipper's request, the Owner must provide the Shipper with its estimate of the Curtailment to Capacity available to the Shipper on each day of the planned outages specified in the Annual WAWP Maintenance Schedule.
- (d) The Owner must use reasonable endeavours to:
  - (i) comply with the Annual WAWP Maintenance Schedule; and
  - (ii) give the Shipper as much advance notice as is reasonably practicable (in the form of regular outage schedules or otherwise) of any material departure from the Annual WAWP Maintenance Schedule that is likely to affect the Shipper,however, the Owner is not bound by the Annual WAWP Maintenance Schedule or by any notification it provides pursuant to clause 14(d)(ii).
- (e) The Owner may, acting as a Reasonable and Prudent Person, determine the timing and extent of any Curtailment necessitated by Planned Maintenance or Major Works in its discretion.

## 15. **FORCE MAJEURE**

- (a) A Party (the ***Affected Party***) is excused from performance of, and is not liable for any failure in carrying out any of its obligations under this Contract, to the extent that it is prevented from doing so by Force Majeure.
- (b) Subject to clause 15(f), an obligation to pay money is not excused by Force Majeure.
- (c) Without prejudice to the Shipper's entitlement to a refund under clause 13.4 in circumstances where a Curtailment is other than as a result of an event of Force Majeure where the Shipper is the Affected Party, the Shipper is not relieved of its obligation to pay the Capacity Reservation Charge by the occurrence of an event of Force Majeure in respect of it however caused.
- (d) If a Party claims the benefit of Force Majeure, it must:
  - (i) promptly give notice to the other Party of the occurrence and circumstances in which the claim arises;
  - (ii) use reasonable endeavours to remedy the consequences without delay; and
  - (iii) resume full performance of its obligations under this Contract as soon as reasonably practicable.

- (e) 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.
- (f) The Shipper is relieved from paying the Surcharges to the extent that it was unable to prevent such Surcharges accruing due to some event of Force Majeure affecting it.
- (g) For the avoidance of doubt, the Parties acknowledge that lack of finances, lack of funds or access to funds, or inability to borrow funds are not in any circumstances an event of Force Majeure under this Contract.

## 16. CHARGES

### 16.1 Obligation to pay Charges

The Shipper must pay the Charges and any other amounts payable under this Contract to the Owner in the manner and at the times set out in this Contract. The Charges must be invoiced and paid in accordance with clause 17.

### 16.2 Capacity Reservation Charge

- (a) The Capacity Reservation Charge will be calculated for each Gas Day during the Period of Supply by multiplying the sum of Contracted Capacity for Services at each Outlet Point by the Capacity Reservation Charge.
- (b) Subject to clause 13.4, the Capacity Reservation Charge is payable for each Gas Day during the Period of Supply regardless of whether the Shipper provides Gas at any Inlet Point and regardless of whether the Shipper takes Gas at any Outlet Point.

### 16.3 Commodity Charge

The Commodity Charge will be calculated for each Gas Day during the Period of Supply by multiplying the Commodity Charge by each GJ of Gas Delivered to the Shipper up to Contracted Capacity for Services at all Outlet Points by the Operator on that Gas Day.

### 16.4 Adjustment to Base Tariff for CPI

- (a) The Parties acknowledge that the initial Base Tariff has been calculated as at 1 July 2018, and will be adjusted for CPI annually.
- (b) The Base Tariff must be adjusted each year with effect from 08:00 hours on 1 January of each relevant year in accordance with CPI on the following basis:

$$CST_n = \left[ (CST_b - A) \times \frac{CST_n}{CST_b} \right] + A$$

where:

- (i) **CST<sub>n</sub>** is the adjusted Base Tariff;
- (ii) **CST<sub>b</sub>** is the Initial Base Tariff, or if the Base Tariff has been adjusted, the Base Tariff as most recently adjusted pursuant to clause this clause 16.4;
- (iii) **CPI<sub>b</sub>** is the CPI for the quarter ending on the later of 30 September 2018 or the quarter ending 3 months prior to the date of the most recent adjustment of the Base Tariff pursuant to this clause 16.4;
- (iv) **CPI<sub>n</sub>** is the CPI for the quarter ending on 30 September of the year prior to the year for which the Base Tariff is being adjusted; and
- (v) **A** is the aggregate amount of any adjustments to the Base Tariff made pursuant to clause 16.2 since 30 September of the year prior to the year for which the Base Tariff is being adjusted (provided that if A is a negative number, it is deemed to be zero).

## 16.5 Other Taxes

If at any time during the Term:

- (a) any Tax imposed by State or Federal Government which was not in force as at the Execution Date is validly imposed;
- (b) any Carbon Cost is incurred in relation to the WAWP by the Owner to the extent not previously included in an adjustment to the Base Tariff under clause 18.2(a);
- (c) the rate at which a Tax imposed by State or Federal Government is levied is validly varied from the rate prevailing as at the date of the last adjustment to the Base Tariff under clause 18.2(a) (or the Execution Date if no such adjustment has been made);  
or
- (d) the basis on which a Tax imposed by State or Federal Government is levied or calculated is validly varied from the basis on which it is levied or calculated as at the date of the last adjustment to the Base Tariff under clause 18.2(a) (or the Execution Date if no such adjustment has been made),

(called the **Tax Change**) then, to the extent that the Tax Change increases any costs incurred by the Owner in performing its obligations under this Contract or otherwise affects the amounts payable under this Contract (including any Carbon Costs attributable to the operation of the WAWP whether incurred by the Owner directly, by payment to any third party or by reimbursement to the Owner or any of their Related Bodies Corporate where any of those persons are liable for the payment of such Carbon Costs), the Shipper must, after the Capacity Start Date, pay to the Owner an amount equal to the increase in costs attributable to the Tax Change, which amount must be added to amounts otherwise due under this Contract. In the event that a Tax Change results in a decrease in costs incurred by the Owner, the Owner must deduct the saving attributable to the Tax Change from amounts otherwise due to the Owner under this Contract. Any such increase or decrease in charges will be apportioned against all shippers on the WAWP, pro rata to their usage of the WAWP, and shall not form part of the Base Tariff and shall be shown separately on any invoice submitted to the Shipper in accordance with clause 17.2.

## 16.6 Goods and Services Tax

- (a) Unless otherwise stated, all amounts payable or the value of other consideration provided in respect of the supplies made under this Contract are exclusive of GST.
- (b) If a supply under this Contract is subject to GST then the recipient of the supply must pay, in addition to the other consideration payable or to be provided for the supply, an additional amount equal to the GST.
- (c) Where any amount is payable to a Party as a reimbursement, indemnification or similar payment calculated by reference to a loss, cost, expense or any other amount incurred by that Party, then such amount must be reduced by any part of that loss, cost expense or other amount which is attributable to GST for which that Party, or the representative member of any GST group of which that Party is a member, is entitled to an input tax credit.
- (d) The additional amount payable under clause 16.6(b) is payable at the same time as the payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it is payable within 10 days of a Tax Invoice being issued by the Party making the supply.
- (e) Where in relation to this Contract a Party makes a taxable supply, that Party must provide a Tax Invoice in respect of that supply at or before the time the payment to which the supply relates is payable.
- (f) If a Party becomes aware of an adjustment event, that party agrees to notify the other Party as soon as practicable after becoming so aware, and the Parties agree to take whatever steps are necessary, including the issue of an adjustment note, and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply or any refund of any GST (or part thereof) is paid as soon as is practicable but no later than 14 days after the Supplier has satisfied itself that the adjustment event has occurred.
- (g) If an amount is paid by a Party under this Contract as an additional amount under clause 16.6(b) and the amount of GST is not payable or the amount of GST is less than or greater than the additional amount paid, the payer must pay the difference to the supplier or shall be entitled to recover the amount paid from the supplier by serving notice on the supplier (as the case may require).
- (h) For the purposes of this clause 16.2 :
  - (i) **GST** means GST as that term is defined in the GST Law; and
  - (ii) the terms GST group, member, recipient, representative member, supply, consideration, input tax credit, taxable supply, adjustment, adjustment event and adjustment note have the same meaning as in the GST Law.

## 17. INVOICING AND PAYMENT

### 17.1 Monthly payment of Capacity Reservation Charge

- (a) The Owner must, no later than 20 days before the end of each Gas Month (or, in the case of the first Gas Month, as soon as practicable after the Execution date), provide the Shipper a Tax Invoice in respect of the total of the Base Tariff payable by the Shipper for each Gas Day in the following Gas Month.
- (b) Subject to clause 17.4, the Shipper must pay each Tax Invoice provided by the Owner under clause 17.1(a) in full by no later than the close of business on the first calendar day of the Gas Month to which it relates.

### 17.2 Monthly invoicing

- (a) The Owner must, within 5 Working Days after the end of a Gas Month, provide the Shipper a Tax Invoice or Tax Invoices for the Gas Month just ended showing:
  - (i) all Other Charges payable for the month;
  - (ii) any other amounts which under this Contract are payable in arrears or refundable for the month;
  - (iii) any outstanding amounts (whether those amounts were originally payable in arrears or advance) from previous months and the interest payable thereon;
  - (iv) in the case of the Tax Invoice for the final Gas Month in a Gas Year, any funds payable to the Shipper for that Gas Year by reason of any Curtailment of any Capacity Service; and
  - (v) such other information as may be agreed between the Parties.
- (b) Subject to clause 17.4, the Shipper must pay all Tax Invoices provided by the Owner under this clause 17.2 in full within 10 Working Days of receipt .

### 17.3 Default in payment

- (a) If the Shipper fails by the relevant due date to make full payment of any:
  - (i) Capacity Reservation Charge;
  - (ii) Other Charges; or
  - (iii) any other amount or amounts payable by it under this Contract and shown on a Tax Invoice,
- (b) then, without prejudice to the Owner's other rights and remedies under this Contract or in equity, the Shipper must (unless the Owner in its absolute discretion waives this requirement) pay interest on the unpaid amount (after as well as before judgment), calculated daily at the Prescribed Interest Rate from the due date until payment.



- (c) The Prescribed Interest Rate calculated for a day from which interest is payable on an amount referred in clause 17.3(a) or clause 17.4 applies until payment of that amount, and must not be recalculated despite any change in the Bank Bill Rate during that period.
- (d) This clause 17.3 applies with appropriate changes to a default by the Owner in paying or allowing any credit, rebate or other sum under this Contract.

#### **17.4 Disputed Tax Invoices**

- (a) If the Shipper disputes any amount or amounts set out in a Tax Invoice to be due or payable, then the Shipper must pay the undisputed portion (if any) of the amount shown on the Tax Invoice in accordance with clause 17.1(b) or 17.2(b)17.2(b), as the case requires, and must, within 10 Working Days of receipt of the Tax Invoice, give notice in writing to the Owner that it disputes the amount or amounts and full details of the dispute.
- (b) Any amount withheld by the Shipper under this clause 17.3 but subsequently found to be payable is, without prejudice to the Owner's other rights, to attract interest calculated daily at the Prescribed Interest Rate from 10 Working Days after the date of receipt of the Tax Invoice until payment. The Shipper must pay any interest payable under this clause 17.4(b) at the same time as it pays the amount withheld.

#### **17.5 Correction of payment errors**

- (a) If a Party detects any underpayment or overpayment by a Party of any amount and clause 16.6(f) does not apply (including under clause 17.4), then the detecting Party must, within a reasonable time, give notice to paying Party of the underpayment or overpayment, and an adjusting payment is to be made by the appropriate Party within 10 Working Days of that notice. Any such adjusting payment is, without prejudice to the Parties' other rights, to attract interest calculated daily at the Prescribed Interest Rate from the date of underpayment or overpayment until payment of the adjustment.
- (b) Subject to clauses 17.3 and 17.4, in circumstances where there has been an underpayment or overpayment to which clause 17.5(a) applies and the underpayment or overpayment did not result from a failure of the Party which is obliged to pay interest under clause 17.5(a) to perform its obligation under this Contract, the Prescribed Interest Rate for the purposes of clause 17.5(a) is the Bank Bill Rate plus an annual interest rate of 1 percent per annum.

### **18. DEFAULT AND TERMINATION**

#### **18.1 Default by Shipper**

The Shipper is in default under this Contract only if:

- (a) the Shipper defaults in the due and punctual payment, at the time and in the manner prescribed for payment by this Contract, of any amount payable under this Contract;
- (b) the Shipper defaults in the due and punctual performance or observance of any of the other covenants, agreements, conditions or other obligations contained in this Contract and such default is material in the context of the Contract as a whole;
- (c) without the Owner's prior consent, the Shipper sells, parts with Possession of or attempts to sell or part with Possession of, the whole or a substantial part of its undertaking;
- (d) the Shipper suffers an Insolvency Event;
- (e) there is any adverse change in the business or financial condition of the Shipper or any event occurs which could, in the reasonable opinion of the Owner, in any way jeopardise the ability of the Shipper to meet its obligations to the Owner under this Contract; or
- (f) the Shipper is found to be materially in breach of any warranty given to the Owner in this Contract, or if any statement or representation made by any means or in any document by the Shipper to the Owner, is found to be false or misleading in any material particular.

## **18.2 Notice of Shipper's default**

If an event referred to in any one or more of clauses 18.1(a) to 18.1(f) (inclusive) occurs, then the Owner may give notice in writing by certified mail to the Shipper specifying the nature of the default and requiring the Shipper to rectify the default (***Shipper Default Notice***).

## **18.3 When Owner may exercise remedy**

- (a) Subject to clause 18.3(b) the Owner may exercise a remedy under clause 18.4 at any time during which the Shipper remains in default under this Contract.
- (b) the Owner may not terminate this Contract under clause 18.4(b) or commence the exercise of any remedy under clause 18.4(a):
  - (i) in respect of an event described in clauses 18.1(a), 18.1(d) or 18.1(e) unless it has given a Shipper Default Notice, and until 5 Working Days have elapsed after the Shipper receives that Shipper Default Notice; and
  - (ii) in respect of an event described in clauses 18.1(b), 18.1(c) or 18.1(f) unless it has given a Shipper Default Notice and until 40 Working Days have elapsed after the Shipper receives that Shipper Default Notice, and the event has not been remedied within the relevant period specified in 18.3(b)(i) or 18.3(b)(ii).
- (c) A default of the kind referred to in clause 18.1(d) will:

- (i) not give rise to a right of termination provided that the Shipper is not more than 30 days in arrears on any payments due to the Owner and for so long as the Shipper continues to pay for the Tranche B Capacity Service provided; and
- (ii) be deemed to be remedied when the relevant Insolvency Event is no longer continuing.

#### **18.4 Remedies for Shipper's default**

Subject to clause 18.3 if the Shipper is in default under this Contract, then the Owner may in its sole discretion:

- (a) refuse to Receive Gas from the Shipper at an Inlet Point or refuse to Deliver Gas to the Shipper at an Outlet Point until such time as:
  - (i) all amounts the failure to pay which constitutes the event described in clause 18.1(a) plus interest on those amounts at the Prescribed Interest Rate, have been paid in full; and
  - (ii) all other events described in clause 18.1 have been remedied, ceased or removed; or
- (b) by notice in writing to the Shipper terminate this Contract which termination takes effect immediately upon receipt of such notice.

#### **18.5 Default by Owner**

The Owner is in default under this Contract only if:

- (a) the Owner repudiates, disclaims or defaults in the performance of, any obligation under this Contract and such repudiation, disclaimer or default is material in the context of the Contract as a whole; or
- (b) an Insolvency Event occurs in respect of the Owner.

#### **18.6 Notice of Owner's default**

If an event referred to in clause 18.5 occurs, then the Shipper may give notice in writing by certified mail to the Owner specifying the nature of the default and requiring the Owner to rectify the default (***Owner Default Notice***).

#### **18.7 When Shipper may exercise remedy**

- (a) Subject to clauses 18.7(b) and 18.7(b) the Shipper may terminate this Contract or exercise a remedy under clause 18.8 at any time during which the Owner remains in default under this Contract.
- (b) the Shipper may not terminate this Contract or commence the exercise of any remedy under clause 18.8 for a default under this Contract:

- (i) in respect of an event described in clause 18.5(a) unless it has given an Owner Default Notice, and until 40 Working Days have elapsed after the Owner receives that Owner Default Notice and the event has not been remedied within this time; and
  - (ii) in respect of an event described in clause 18.5(b) unless the Owner is more than 30 days in arrears on any payments due to the Shipper and the Owner has ceased to provide the Tranche B Capacity Service to the Shipper.
- (c) A default of the kind referred to in clause 18.5(b) above is deemed to be remedied when the relevant Insolvency Event is no longer continuing. A default of the kind referred to in clause 18.5(a) above that relates to the repudiation or disclaimer of a contract, agreement or deed is deemed to be remedied when the relevant repudiation or disclaimer is no longer continuing.
- (d) In determining whether the Owner is in default under this Contract, any applicable extension of time or other limitation agreed between the Parties must be taken into account.

#### **18.8 Remedies for Owner's default**

Subject in all cases to clauses 18.7, if the Owner is in default under this Contract and:

- (a) the Shipper elects to terminate this Contract in respect of a default described in clause 18.5(b) that gives rise to a right to terminate under clause 18.7(b)(ii), the Shipper may in its sole discretion by notice in writing to the Owner terminate this Contract, which termination takes effect at the start of the Gas Day immediately following the Owner's receipt of the notice of termination; or
- (b) the Shipper elects to terminate this Contract in respect of a default described in clause 18.5(a), the Shipper may, in its sole discretion, by notice in writing to the Owner terminate this Contract, which termination takes effect at the time the Shipper specifies in the notice of termination not exceeding 3 years after the Owner receives the notice of termination.

#### **18.9 Saving of other remedies**

Except where expressly excluded or limited by this Contract, the right to terminate this Contract under this clause 18 is in addition to and is not in substitution for any other rights and remedies available to a Party, whether under this Contract or under any Law.

#### **18.10 Effect of termination**

- (a) Termination of this Contract by the Owner under clause 18.4(b) or the Shipper under clause 18.8:

- (i) does not prejudice the rights or remedies accrued to either Party at the date of termination or any of the provisions of clauses 13.2 or 13.3 clauses 19.1 to 19.7 (inclusive); and
  - (ii) subject to clause 18.10(b) relieves each Party of all further obligations under this Contract to the other Party.
- (b) Termination of this Contract by the Owner under clause 18.4(b) does not relieve the Shipper of its obligations under this Contract to (subject to clause 18.10(d)) pay the Base Tariff Charges for the balance of the Period of Supply (but for the termination of this Contract) and to pay all amounts outstanding (and then due and payable) at the time of termination, and termination of this Contract by the Shipper under clause 18.8 does not relieve the Owner of its obligations to pay all amounts outstanding (and then due and payable) at the time of termination.
- (c) Termination of this Contract by the Shipper under clause 18.8 does not relieve the Owner of its liability for Direct Damage suffered by the Shipper as a result of the default by the Owner.
- (d) The Shipper is relieved of its obligation under clause 18.10(b) to continue to pay an amount if and to the extent that the Owner subsequently enters into a contract for Capacity Services, and receives payment from the Shipper or any other shipper for, some or all of the Contracted Capacity (**Terminated Capacity**) made spare by the termination of this Contract.
- (e) For the purposes of clause 18.10(d) Terminated Capacity in any Capacity Service must be assumed to be the last Capacity available to be committed under a contract for Gas Transmission Capacity, and any amounts received by the Owner under such contract must be assumed to be applied last to any Terminated Capacity committed under that contract.

## 19. LIABILITY

### 19.1 Liability limited to Direct Damage

Subject to the terms and conditions of this Contract, a Party who:

- (a) is negligent; or
- (b) defaults in respect of its obligations to the other Party under this Contract,

is liable to the other Party (including its directors, servants, consultants, independent contractors and agents) for, and must indemnify the other Party (including its directors, servants, consultants, independent contractors and agents) against, any Direct Damage caused by or arising out of the negligence or default.

### 19.2 Liability for fraud

A Party who is fraudulent in respect of its obligations to the other Party under this Contract is liable to the other Party for, and must indemnify the other Party against, any loss or damage caused by, consequential upon or arising out of the fraud, and the exclusion of Indirect Damage in clause 19.3 does not apply.

**19.3 No liability for Indirect Damage**

- (a) Subject to clause 19.3(c) neither Party is in any circumstances to be liable to the other Party for any Indirect Damage, however arising.
- (b) Subject to clause 19.3(c) the Owner hereby releases the Shipper from, and agrees to indemnify the Shipper against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by the Owner and the Shipper hereby releases the Owner from, and agrees to indemnify the Owner against all Indirect Damage arising under, or in respect of conduct under, this Contract suffered by the Shipper.
- (c) Where this Contract states that "the exclusion of Indirect Damage in clause 19.3(a) does not apply", or words to the same effect, in relation to a matter, then:
  - (i) the exclusion of Indirect Damage in clause 19.3(a) and the release and indemnity in clause 19.3(b) do not apply in relation to that matter; and
  - (ii) the Parties' respective liability in relation to the matter must be determined by Law and, to avoid doubt, the definition of "Indirect Damage" in this Contract must be disregarded for the purposes of that determination.

**19.4 No liability arising out of any approval by Owner**

Without limiting the generality of clause 19.3 the Owner is not, except as provided in clauses 19.1 and 19.2 in any circumstances to be liable to the Shipper for any Direct Damage or Indirect Damage arising out of any approval by the Owner 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 WAWP.

**19.5 Saving of contractual payments**

Nothing in this clause 19 limits the liability of either Party to make payments due under this Contract.

**19.6 Shipper responsible for contractors' personnel and property**

- (a) Subject to clause 19.1 the Shipper alone is liable for any:
    - (i) injury to or death of any person employed by the Shipper or by any person (except the Owner) contracting with the Shipper; and
    - (ii) loss of or damage to any property of the Shipper or of any person (except the Owner) contracting with or employed by the Shipper,
-

- (b) however caused, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the WAWP, or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to the Shipper or where the Owner's property or directors, servants, consultants, independent contractors or agents and the Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.
- (c) The Shipper must indemnify the Owner and any person (except the Shipper) contracting with the Owner, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 19.6(a).

**19.7 Owner responsible for contractors' personnel and property**

- (a) Subject to clause 19.1 the Owner alone is liable for any:
  - (i) injury to or death of any person employed by the Owner or by any person (except the Shipper) contracting with the Owner; and
  - (ii) loss of or damage to any property of the Owner or of any person (except the Shipper) contracting with or employed by the Owner,
- (b) however caused, which occurs during the duration of this Contract, in or about, or incidental to activities in or about, any Inlet Station, any Outlet Station, the WAWP or any other premises, facilities or places used for the storage, transportation or Delivery of Gas Received from or Delivered to the Shipper or where the Owner's property or directors, servants, consultants, independent contractors or agents and the Shipper's property or directors, servants, consultants, independent contractors or agents are in proximity.
- (c) The Owner must indemnify the Shipper and any person (except the Owner) contracting with the Shipper, and their respective directors, servants, consultants, independent contractors and agents against all liabilities and expenses arising from or in connection with any claim, demand, action or proceeding made or brought by any person in respect of or in relation to any injury, death, loss or damage referred to in clause 19.7(a).

**19.8 Each limitation separate**

Each limitation or exclusion created by this clause 19 and each protection given to the Owner or the Shipper or to their respective directors, servants, consultants, independent contractors and agents by this clause 19 is a separate limitation, exclusion or protection applying and surviving even if for any reason any provision of this clause 19 is held inapplicable in any circumstances.

## 20. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS

### 20.1 Application of clause 24 of the SSC

The Parties agree that the provisions of clause 24 of the SSC apply to and are incorporated in this Agreement in connection with resolution of dispute arising under this Agreement as though the Shipper and the Operator referred to in the SSC were the Shipper and the Owner referred to respectively under this Agreement.

## 21. ASSIGNMENT

### 21.1 Application of clause 25 of the SSC

The Parties agree that the provisions of clause 25 of the SSC apply to and are incorporated in this Agreement in connection with assignments of this Agreement as though the Shipper and the Operator referred to in the SSC were the Shipper and the Owner referred to respectively under this Agreement.

## 22. CONFIDENTIALITY

### 22.1 Confidential Information

- (a) Subject to clauses 22.2 and 22.4, each Party must keep the terms and conditions of this Contract, and all information specifically relating to or provided pursuant to or in accordance with this Contract or in the negotiations leading to the execution of this Contract (**Confidential Information**), confidential.
- (b) To avoid doubt Confidential Information includes all information received by the Owner in the Operation and Expansion of the WAWP which relates to the Shipper, the disclosure or misuse of which might reasonably be expected to materially affect the Shipper's commercial interests, including information relating to the Shipper's gas flows and flow rates, billing, and the Shipper's maintenance schedules and plant availability.
- (c) A reference in this clause 22 to information being **disclosed** to or **received** by a Party, includes information being communicated to or created, ascertained, discovered or derived by it or on its behalf.

### 22.2 Exceptions to Confidentiality

### 22.3 Either Party may disclose Confidential Information which:

- (a) at the time when it is disclosed to the Party, is publicly known;
- (b) subject to clauses 22.5 and 22.6, at the time when it is disclosed to the Party, is already known to the Party through some independent means not involving breach of any confidentiality undertaking owed pursuant to clause 22.1 and which the Party can prove by prior or contemporaneous written documentation was already known



to it at the time of disclosure (unless such knowledge arose from disclosure of information in breach of an obligation of confidentiality);

- (c) after the time when it is disclosed to the Party, comes into the public domain otherwise than as a result of any breach of the confidentiality undertaking owed pursuant to clause 22.1
- (d) subject to clauses 22.5 and 22.6, the other Party acquires from a source other than that Party or any Related Body Corporate or representative of that Party where such source is entitled to disclose it and such disclosure is not subject to confidentiality restrictions under this Contract;
- (e) that Party is required by the ASX, court order or any Law to disclose, and in such cases, the disclosing Party must promptly notify the other Party of that requirement or request (as the case requires);
- (f) is necessary in relation to any discovery of documents, or any proceedings before a court, tribunal, other governmental agency or stock exchange, and in such cases, the disclosing Party must promptly notify the other Party of that requirement;
- (g) with the consent of the other Party and subject to any conditions of that consent;
- (h) is required by Law or any governmental agency or stock exchange to be disclosed in connection with the issue of securities or financial products by a Party, a Related Body Corporate of a Party, DIHL, or any funding vehicle of any of those parties;
- (i) is requested by an owner of a pipeline which is inter-connected (directly or indirectly) with the WAWP to the extent that the pipeline owner requires that information for the safe and efficient operation of the inter-connected pipeline and is subject to a confidentiality agreement substantially similar to the confidentiality requirements of this Contract; or
- (j) is required by Law or any Governmental Agency to be disclosed in connection with any emissions generated by or associated with the operation of the WAWP and, in such cases, the disclosing Party must promptly notify the other Party of that requirement or request (as the case requires)..

#### **22.4 Permitted Disclosure**

- (a) Either Party may disclose Confidential Information to:
  - (i) subject to clauses 22.5 and 22.6, its, and its Related Bodies Corporate, employees, officers, agents, contractors, consultants, lawyers, bankers, financiers, financial and technical advisers (and for the purpose of this clause 22.4(a), DBNGP (WA) Nominees Pty Ltd is deemed to be a Related Body Corporate of the Owner); and
  - (ii) subject to clauses 22.5 and 22.6, a bona fide proposed or prospective transferee (and their employees, officers, agents, contractors,

consultants, lawyers, bankers, financiers, financial advisers, Related Bodies Corporate, co-bidders or bid consortium members and actual or proposed joint venturers) of:

- (A) a 20% or more legal or equitable interest in a relevant part or the whole of a Party's business;
- (B) a 20% or more legal or equitable interest in any property to which the information relates;
- (C) 20% or more of the shares in a Party; or
- (D) 20% or more (by value) of the shares or units (or both) in a company or trust (or both) which, directly or indirectly, Controls a Party,

to the extent those persons have a need to know the Confidential Information.

- (b) Any Party seeking to disclose information under clause 22.4(a)(ii) must:
  - (i) seek the consent of the other Party as to the protocols, arrangements and agreements which will govern the disclosure of the information and the prevention of further disclosure of the information, which consent is not to be unreasonably withheld or unreasonably delayed; and
  - (ii) consult with the other Party to ascertain whether there is any commercially sensitive information which may not be disclosed at all or may only be disclosed on terms and conditions agreed between the Parties, and must give effect to the reasonable requirements of the other Party in these respects.<sup>i</sup>

## **22.5 Disclosure by recipient of Confidential Information**

Any Party disclosing information under clauses 22.2 or 22.4 must ensure that persons receiving Confidential Information from it, or from any person or persons to whom the Confidential Information has been disclosed, do not disclose the information except in circumstances permitted in clauses 22.2 or 22.4 (as the case requires).

## **22.6 Use of Confidential Information**

A Party who has received Confidential Information from another under this Contract must not use it, and a Party who has disclosed Confidential Information to a person under clause 22.4 must procure that that person, and any person or persons to whom the Confidential Information is subsequently disclosed, does not use it, except for the purpose of exercising the Party's rights or performing the Party's obligations under this Contract or as otherwise contemplated under this Contract, with the exception of those persons set out in clause 22.4(a)(ii) who must not use the Confidential Information received from another under this Contract except for and in relation to assessing the value of, and preparing a bid for, the

relevant interest under clause 22.4(a)(ii) that is proposed to be acquired and who must comply with the protocols, arrangements and agreements agreed under clause 22.4(b)(i)

## **22.7 Publicity**

A Party must not make press or other announcements or releases relating to this Contract and the transactions the subject of this Contract without the approval of the other Party as to the form and manner of the announcement or release (which approval must not be unreasonably withheld or delayed) unless and to the extent that the announcement or release is required to be made by the Party by Law or by a stock exchange. This clause 22.7 does not apply:

- (a) if the second Party unreasonably delays or withholds approval; or
- (b) to the extent that the proposed announcement or release relates to a matter regarding which the Parties are in a bona fide dispute or disagreement.

Nothing in this clause 22.7 authorises the disclosure of Confidential Information.

## **22.8 No disclosure of terms of this Contract**

Except as otherwise agreed or duly required by Law or any regulatory authority, no Party may disclose the terms of this Contract to any person other than pursuant to clauses 22.3(d) to 22.3(f) and 22.4.

## **22.9 Remedies**

The Parties acknowledge that damages are not a sufficient remedy for any breach of the obligations of this clause 22 and both Parties are entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach, in addition to any other remedies available under any Law.

## **23. NOTICES**

### **23.1 Operational notices**

- (a) Subject to clause 23.1(b), all notices given under this Contract must be communicated by email to the Email Address of the intended recipient, as set out in the Details.
- (b) The Owner and the Shipper may agree on an alternative means for communication of the notices specified in clause 23.1(a), in which case notices referred to in clause 23.1(a) must be communicated using that alternative method.

### **23.2 The CRS**

- (a) Subject to clauses 23.2(b) and 23.2(c), Accumulated Imbalance Notices and all notices under clause 8 (Nominations) may be given by posting it on the CRS.

- (b) If at any time and for any reason the CRS fails to function properly, then each of the notices specified in clause 23.2(a) that are required to be given during the period of failure, must be given by email to the Email Address of the intended recipient.
- (c) The terms and conditions of access to the CRS will be as published by DBNGP (WA) Nominees Pty Ltd ABN 78 081 609 289 from time to time. Save as provided by clauses 23.1(a) and 23.2(a), or as the parties may expressly agree, the CRS must not be used for giving notices which have contractual effect unless the Shipper has agreed to the terms and conditions (such agreement not to be unreasonably withheld).

### **23.3 Notices generally**

- (a) Where under this Contract a notice is required or permitted to be communicated to a Party (other than the notices specified in clauses 23.1(a) and 23.2(a)), the notice is 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 email or facsimile transmission to the Email Address or facsimile number, as the case requires, last notified under this clause 23.
- (b) For the purposes of this clause 23, the addresses, Email Addresses and facsimile numbers of the Parties are as set out in the Details. A Party may, by notice given to the other Party in accordance with this clause 23, nominate any one or more of an address located within the State, an Email Address or a facsimile number which are to take effect in substitution for the contact information set out in the Details.

### **23.4 Receipt of notices**

The Parties agree that clause 29.4 of the SSC applies to govern the receipt of notices.

## **24. REPRESENTATIONS AND WARRANTIES**

### **24.1 Owner's Representations and Warranties**

- (a) The Owner represents and warrants to the Shipper that:
  - (i) it has in full force and effect all necessary authorisations, including those required by the terms of the deed constituting the Pipeline Trust, to enter into this Contract in its capacity as trustee of the Pipeline Trust, and in that capacity to observe its obligations under this Contract and to allow those obligations to be enforced;
  - (ii) it has in full force and effect all materially necessary authorisations, leases, licences or easements to own, Operate and Maintain the WAWP and other facilities for which it is responsible under this Contract;
  - (iii) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

- (iv) it does not 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);
  - (v) this Contract and any transaction under it does not contravene the Owner's constituent documents, or the deed constituting the Pipeline Trust, 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;
  - (vi) it is the owner of the WAWP in its capacity as trustee of the Pipeline Trust;
  - (vii) the Pipeline Trust has been validly created and is in existence;
  - (viii) it has been validly appointed as, and remains, the trustee of the Pipeline Trust and is the only trustee of the Pipeline Trust;
  - (ix) it has, in its capacity as trustee of the Pipeline Trust, valid rights of indemnity against the assets of the Pipeline Trust for all liabilities that it may incur in that capacity, including all liabilities that it may incur under this Contract, and all such assets are available for satisfaction of such liabilities;
  - (x) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness it has in its capacity as trustee of the Pipeline Trust except debts mandatorily preferred by Law; and
  - (xi) it is not in default under a Law affecting it or its assets, or any obligation or undertaking by which it or any of its assets are bound which will, or might reasonably be expected to, materially affect its ability to perform its obligations under this Contract.
- (b) The representations and warranties in clause 24.1(a) are made on and from the Capacity Start Date, and are made anew on each day thereafter for the duration of this Contract.

## **24.2 Shipper's Representations and Warranties**

- (a) Subject to clause 24.2(b) the Shipper represents and warrants to the Owner that:
- (i) it has in full force and effect all authorisations necessary to observe its obligations under this Contract, and to allow those obligations to be enforced;
  - (ii) its obligations under this Contract are valid and binding and are enforceable against it in accordance with their terms;

- (iii) this Contract and any transaction under it does not contravene the Shipper's constituent documents or any Law or any of its obligations or undertakings by which it or any of its assets are bound or cause to be exceeded any limitation on its, or its directors', powers;
  - (iv) its obligations to make payments under this Contract rank at least equally with all unsecured and unsubordinated indebtedness of the Shipper except debts mandatorily preferred by Law;
  - (v) neither the Shipper nor any of its Related Bodies Corporate is in default under a Law affecting any of them or their respective assets, or any obligation or undertaking by which it or any of its assets are bound which will or might reasonably be expected to, materially affect its ability to perform the obligations under this Contract;
  - (vi) there is no pending or threatened action or proceeding affecting the Shipper or any of its Related Bodies Corporate or any of their respective assets before a court, 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 Contract;
  - (vii) neither the Shipper 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
  - (viii) the Shipper is not an agent or trustee in relation to this Contract or in relation to the Gas to be Received or Delivered under this Contract.
- (b) The representations and warranties in clause 24.2 are made on and from the Capacity Start Date, and are made anew on each day thereafter for the duration of this Contract.

## 25. RECORDS AND INFORMATION

Except where otherwise provided in this Contract, both the Owner and the Shipper must prepare and maintain proper books, accounts, records and inventories of all matters connected with or relating to this Contract, and must retain those books, accounts, records and inventories for at least seven years.

## 26. INSURANCES

- (a) Subject to clause 26(d), the Shipper must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable and Prudent Person:

- (i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981* (WA), and for the Shipper's common law liability to workers;
  - (ii) property damage insurance against damage, loss or destruction of the Shipper's plant and equipment (if any) at the Inlet Point Station or Outlet Point Station; and
  - (iii) liability insurance for such amount as the Owner may reasonably require (not exceeding \$100 million adjusted for changes in CPI compared to the CPI for the quarter ending immediately prior to the Execution Date) against risk of loss, damage, death or injury to property or personnel of the Owner, the Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.
- (b) Subject to clause 26(d) the Shipper must:
- (i) arrange for the Owner's interest to be noted on the policies referred to in clauses 26(a)(ii) and 26(a)(iii) to the reasonable satisfaction of the Owner so that the Owner is covered under those policies; and
  - (ii) use reasonable endeavours to arrange for the insurers to waive rights of subrogation against the Owner.
- (c) Subject to clause 26(d), the Shipper must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide the Owner with certificates of currency of the insurances and endorsements required by this clause 26.
- (d) The Owner may waive compliance by the Shipper with any or all of the requirements of clauses 26(a), 26(b) and 26(c) if the Owner:
- (i) is satisfied that the Shipper has adequate alternative arrangements; or
  - (ii) accepts the Shipper as a self-insurer; or
  - (iii) determines that there is other sufficient reason to do so.
- (e) Subject to clause 26(h), the Owner must procure and maintain at its own expense throughout the duration of this Contract the following insurances with insurers having a reputation satisfactory to a Reasonable and Prudent Person:
- (i) workers' compensation insurance in accordance with the *Workers' Compensation and Injury Management Act 1981* (WA), and for the Owner's common law liability to workers;
  - (ii) property damage insurance against damage, loss or destruction of the WAWP and all associated equipment; and
  - (iii) liability insurance for such amount as the Shipper may reasonably require (not exceeding \$20 million adjusted for changes in CPI compared to the

CPI for the quarter ending immediately prior to the Execution Date) against risk of loss, damage, death or injury to property or personnel of the Owner, the Shipper or the public in connection with, related to or arising out of this Contract, caused by negligence.

- (f) Subject to clause 26(h), the Owner must use reasonable endeavours to arrange for:
  - (A) endorsement on the policies referred to in clauses 26(e)(ii) and 26(e)(iii) of the Shipper as an insured or co-insured; or
  - (B) the Shipper's interest to be noted on those policies to the satisfaction of the Shipper so that the Shipper is covered under those policies; and
- (ii) the insurers to waive rights of subrogation against the Shipper.
- (g) Subject to clause 26(h), the Owner must, prior to the commencement of this Contract and prior to the commencement of each Calendar Year thereafter, provide the Shipper with certificates of currency of the insurances and endorsements required by this clause.
- (h) The Shipper may waive compliance by the Owner with any or all of the requirements of clauses 26(e), 26(f) and 26(g) if the Shipper:
  - (i) is satisfied that the Owner has adequate alternative arrangements;
  - (ii) accepts the Owner as a self-insurer; or
  - (iii) determines that there is other sufficient reason to do so.

## 27. NO WAIVER

No failure or delay by a Party in exercising any of its rights under this Contract operates as a waiver of the Party's rights or prevents the Party from subsequently enforcing any right or treating any breach by the other Party as a repudiation of this Contract.

## 28. ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the Parties on the subject matter of this Contract and supersedes all prior negotiations, representations and agreements between the Parties.

## 29. SEVERABILITY

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



### 30. ENTRY AND INSPECTION

- (a) Each Party grants to, or must use reasonable endeavours to procure for, the other Party all reasonable rights of entry:
  - (i) for the purposes of constructing, installing, operating, maintaining and verifying the accuracy of any Metering Equipment, other equipment or thing (and if the Party is the Owner, the WAWP);
  - (ii) to inspect for safety or other reasons the construction, installation, Operation, Maintenance and repair of any Metering Equipment, other equipment or thing (and if the Party is the Owner, the WAWP); and
  - (iii) for any other purpose connected with or arising out of this Contract.
- (b) Any entry under clause 30(a) is made in all respects at the expense and risk of the entering Party, who must make good any damage occasioned by or resulting from the entry.
- (c) Except in the case of emergency, a Party must:
  - (i) when it seeks to exercise a right of entry under this clause 30 give reasonable notice to the other Party specifying the proposed time and duration of entry; and
  - (ii) take all reasonable steps to ensure that during the entry its employees, servants, consultants, independent contractors and agents cause as little inconvenience to the other Party as possible and at all times comply with all reasonable safety standards and other requirements of that Party.
- (d) To the extent that any equipment or thing is located on the premises of a third person, the Parties must use their reasonable endeavours to secure for either or both of the Parties a right of entry to that third person's premises.

### 31. OWNERSHIP, CONTROL, MAINTENANCE AND RISK

- (a) In the absence of any agreement between the Parties to the contrary, the Inlet Points and the Outlet Points on the WAWP mark the boundaries of ownership of all plant, equipment, pipelines and facilities and, as between the Parties and, in the absence of evidence to the contrary:
  - (i) the Shipper is presumed to own any relevant thing upstream of the Inlet Point and downstream of an Outlet Point; and
  - (ii) the Owner is presumed to own any relevant thing between the Inlet Point and the Outlet Point.
- (b) In the absence of any agreement between the Parties to the contrary, the responsibility to install, commission, Operate and Maintain, and the risk in relation to, all plant, equipment, pipelines and facilities follows ownership.

32. **REVOCATION, SUBSTITUTION AND AMENDMENT**

- (a) Subject to clause 32(b), the Owner and the Shipper may at any time agree in writing to revoke, substitute or amend any provision of this Contract.
- (b) The Owner and the Shipper may not amend this Contract to increase the Shipper's Contracted Capacity under this Contract.
- (c) Clause 32(b) does not prevent the Shipper from exercising any contractual right granted by this Contract.

33. **NO COMMON CARRIAGE**

Neither the Owner nor the Shipper is a common carrier of Gas transported through the WAWP.

34. **OWNER NOT A SUPPLIER OF GAS**

Nothing in this Contract requires the Owner to supply Gas to the Shipper but the Owner is required to Deliver Gas from time to time in accordance with this Contract.

35. **NO THIRD PARTY BENEFIT**

No person other than the Owner or the Shipper obtains any right, benefit or entitlement under this Contract, despite that person being referred to in this Contract or belonging to a class of persons which is referred to in this Contract.

36. **GOVERNING LAW**

This Contract must be construed and interpreted in accordance with the Law of Western Australia and the Parties entering into this Contract submit to the non-exclusive jurisdiction of the courts of Western Australia.

37. **OWNER'S LIMITATION OF LIABILITY**

- (a) The Owner enters into this Contract only in its capacity as trustee of the Pipeline Trust and in no other capacity. A liability arising under or in connection with this Contract can be enforced against the Owner only to the extent to which it can be satisfied out of property of the Pipeline Trust out of which the Owner is actually indemnified for the liability. Except as provided in clause 37(b) this limitation of the Owner's liability applies despite any other provision of this Contract and extends to all liabilities and obligations of the Owner in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Contract.
- (b) clause 37(a) does not act to limit:

- (i) the Shipper's entitlements to seek orders against the Owner (in its capacity as trustee of the Pipeline Trust) for specific performance or injunctive relief, in addition to any other remedies available to the Shipper under any Law; or
- (ii) Owner's liability arising as a result of its fraud, gross negligence or gross misconduct.

### Schedule 1 - Charges

All amounts in this Schedule 1 are exclusive of GST.

Row	Description of Charge	Rate at which Charge is determined
1	Base Tariff as at 1 July 2018	\$0.0997/GJ
2	Capacity Reservation Charge as at 1 July 2018	\$0.0100/GJ
3	Commodity Charge as at 1 July 2018	\$0.0897/GJ
<b>Other Charges</b> (clause 17.2(a)(i))		
4	Excess Imbalance Rate as at 1 July 2018	\$0.0498/GJ

## Schedule 2 - Operating Specifications

### Item 1 Gas Specifications

Component	Inlet Points and Outlet Points	
Maximum carbon dioxide (mol %)	4.0	
Maximum inert gases (mol %)	7.0	
Minimum higher heating value (MJ/m3)	37.0	
Maximum higher heating value (MJ/m3)	42.3	
Minimum Wobbe Index	46.5	
Maximum Wobbe Index	51.0	
Maximum total sulphur (mg/m3)	Unodorised Gas	10
	Odorised Gas	20
Maximum Hydrogen Sulphide (mg/m3)	2	
Maximum Oxygen (mol %)	0.2	
Maximum Water (mg/m3)	48	
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute	Below 0°C	
Maximum radioactive components (Bq/m3)	600	
Minimum Extractable LPGs (t/TJ)*	0	

\* Extractable LPG means LPG that can be extracted from Gas without causing the Gas to fail to comply with the Operating Specifications for Outlet Points.

In addition, the following temperature and pressure specifications set out in Item 2 below apply.

**Item 2 Gas Temperature and Pressure**

**Inlet Points: Minimum and Maximum Temperature and Pressure**

Location	Pressure		Temperature	
	Min (kPag)	Max (kPag)	Min (°C)	Max (°C)
WI-02 (CS2)	Line Pressure	MAOP	[0]	[50]
WI-01 (TGSF)	Line Pressure	As advised by DDGT		

**Outlet Points: Minimum and Maximum Temperature and Pressure**

Location	Pressure		Temperature	
	Min (kPag)	Max (kPag)	Min (°C)	Max (°C)
WO-01 (CS2)	Line Pressure	MAOP	[0]	[45]
WI-02 (TGSF)	Line Pressure	As advised by DDGT		

**Schedule 3 - Priority Plan**

<b>Order of Priority</b>	<b>Curtailement &amp; Nominations</b>
1	Any Service under the CAPL Shipper Contract
2	Tranche A Capacity Service
3	Tranche B Capacity Service

**Executed** by the Parties on

2018

**Executed** as an agreement by

**DBP Development Group Nominees Pty Limited** ABN 99 153 397 632

as Trustee of the DBP Development Group Trust ABN 40 942 585 956)

in accordance with section 127 of the *Corporations Act*:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Company Secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**Executed** as an agreement by

**[Shipper]** ABN [XXX]

in accordance with section 127 of the *Corporations Act*:

\_\_\_\_\_  
Director

\_\_\_\_\_  
Director/Company Secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name



---