

Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline

**INDEPENDENT GAS PIPELINES ACCESS REGULATOR
WESTERN AUSTRALIA**

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1. INTRODUCTION

This document comprises the Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline (“**DBNGP**”) pursuant to the requirements of the *Gas Pipelines Access (Western Australia) Act 1998*, which incorporates the *National Third Party Access Code for Natural Gas Pipeline Systems* (“**Code**”). The DBNGP is operated by Epic Energy (WA) Gas Transmission Pty Ltd (“**Epic Energy**”).

2. BACKGROUND

- 2.1 On 23 May 2003 the Independent Gas Pipelines Access Regulator in Western Australia (“Regulator”) issued a Final Decision on the proposed Access Arrangement for the DBNGP. This Final Decision was to not approve the Access Arrangement.
- 2.2 Epic Energy submitted a revised Access Arrangement to the Regulator on 8 August 2003. After considering the Revised Proposed Access Arrangement, the Regulator was not satisfied that it incorporated, substantially incorporated or otherwise addressed all the amendments specified in the Final Decision. On this basis, the Regulator did not approve the revised Access Arrangement. As a consequence, this Access Arrangement has been drafted and approved by the Regulator in accordance with the requirements of section 2.20 of the Code.

3. THE DBNGP (DESCRIPTION OF THE PIPELINE SYSTEM)

- 3.1 The DBNGP is as described in the following pipeline licences:
- (a) PL 40 (as amended or varied); and
 - (b) PL 47 (as amended or varied).
- 3.2 A detailed description of the DBGNP is contained in the Access Arrangement Information.

4. COMMENCEMENT

The Access Arrangement commences on 13 January 2004.

5. APPLICATIONS FOR ACCESS

5.1 The Application Form

- (a) Prospective Shippers must apply for access in the form specified by Epic Energy from time to time in the Access Guide (as amended) (“**Access Guide**”) the current version of which forms part of the Information Package required by Section 5.1 of the Code.
- (b) The procedures applying to applications are detailed in the Access Guide.
- (c) An Access Request must be accompanied by the Prescribed Fee.
- (d) If an Access Contract is entered into, the applicable tariff will be adjusted over the first year of the Access Contract by an amount equal to the Prescribed Fee.

5.2 Criteria for Assessment of Applications

- (a) Epic Energy will assess an Access Request as a reasonable and prudent pipeline operator based on the information provided to Epic Energy with the Access Request in the form specified in the Access Guide.
- (b) In addition to the matters set out in the Access Guide, Epic Energy may request such further detail and information from a Prospective Shipper as Epic Energy reasonably considers necessary to assess the Prospective Shipper’s Access Request.
- (c) If a Prospective Shipper fails to comply with a reasonable request by Epic Energy for further information within 20 Days of receipt of such request, then the Prospective Shipper’s Access Request is (subject to any extension of time granted by Epic Energy) rejected. A new Access Request by that Prospective Shipper will rank behind all other current Access Requests.
- (d) If a Prospective Shipper has submitted an Access Request and that Access Request is accepted by Epic Energy in the manner set out in the Access Guide, then an Access Contract between Epic Energy and the Prospective Shipper is formed which is binding on both parties.

5.3 Queuing Policy

- (a) Epic Energy will create a single queue for all Access Requests.
- (b) For the avoidance of doubt, there will be no separate queue for Access Requests for a Firm Service.
- (c) Subject to sub-clauses 5.3(d), 5.3(e) and 5.3(i), Access Requests are to have priority determined by the order in which they are received by Epic Energy. However, Epic Energy may deal with Access Requests out of order provided that:
 - (i) the Access Request that is being dealt with out of order is materially different to the Access Requests which are first in time; and
 - (ii) the Prospective Shippers with the Access Requests which are first in time do not suffer any material prejudice as a result.
- (d) Any Access Request for a Service that was made prior to this Access Arrangement coming into effect (“**prior AA Access Requests**”) will have priority over Access Requests made after this Access Arrangement comes into effect. The priority amongst prior AA Access Requests is to be determined in accordance with the order in which they are received by Epic Energy.
- (e) An Access Request will not be placed in the queue if it does not comply with the requirements for a complying Access Request, as set out in the Access Guide.
- (f) An Access Request that is entered into the queue may be rejected at any stage prior to its acceptance by Epic Energy (in the form of an Access Contract) if:

- (i) the Access Request requires expansion of the DBNGP system for it to be met and the expansion is inconsistent with Epic Energy's extensions and expansions policy as set out in the Access Arrangement; or
 - (ii) the Prospective Shipper is, to Epic Energy's satisfaction as a reasonable and prudent pipeline operator, not in a position to meet its obligations under the Access Contract; or
 - (iii) the requested Capacity can not be provided having regard to the load characteristics set out in the Access Request and the load characteristics of Other Shippers; or
 - (iv) where the Access Request is for a Non-Reference Service, Epic Energy and the Prospective Shipper have not reached agreement concerning the terms and conditions for the Non-Reference Service by 24 months prior to the proposed commencement date under the Access Request, except where the terms and conditions for the Non-Reference Service are being arbitrated pursuant to section 6 of the Code.
- (g) If an Access Request is rejected, that Access Request's priority in the queue is lost.
- (h) A Prospective Shipper may at any time before Epic Energy accepts an Access Request withdraw its Access Request by notice in writing. In this case, any refund of the Prescribed Fee is entirely within the discretion of Epic Energy.
- (i) A Prospective Shipper may amend an Access Request at any time prior to its acceptance by Epic Energy by submitting a further Access Request form which form expressly states that it amends the previous Access Request ("**Original Access Request**") and is marked up to show the changes from the Original Access Request. The amended Access Request supersedes the Prospective Shipper's Original Access Request and the following shall apply:
- (i) If the amendment is limited to a reduction in a change in requested Commencement Date, or is not in Epic Energy's opinion a material change to the Original Access Request, the amended Access Request will be deemed to have been lodged on the date of the Original Access Request.
 - (ii) In all other cases, if Epic Energy determines the amended Access Request is materially different from the Original Access Request to the extent that another Prospective Shipper whose Access Request has a position in the queue after the Original Access Request is materially prejudiced, the amended Access Request will be deemed to have been lodged on the date on which it is received by Epic Energy.
- (j) This queuing policy is subject to any Capacity Expansion Options which may be granted by Epic Energy from time to time.
- (k) Capacity Expansion Options will be processed independently of and stand apart from any other Access Requests which have been received, and will receive priority to Prospective Shippers in the queue as follows:
- (i) In relation to Developable Capacity – ahead of any Access Request already in the queue at the time of exercise of the Capacity Expansion Option; and
 - (ii) In relation to Spare Capacity – as if it were an Access Request lodged in the queue as at the date of its exercise. However, it will still be open for Epic Energy to deal with it in accordance with sub-clause 5.3(c).
- (l) Subject to Epic Energy complying with any confidentiality obligations to other Prospective Shippers, following receipt of an Access Request, Epic Energy will notify Prospective Shippers, in accordance with section 5 of the Code, of:
- (i) the time when that Access Request may be met; and
 - (ii) details of the position in the queue of that Access Request.

- (m) Within a reasonable time of Epic Energy becoming aware of any material change (in the context a Prospective Shipper's Access Request) in the expected timing of when the Prospective Shipper's Access Request in the relevant queue will be satisfied, Epic Energy will notify the Prospective Shipper of the change.

6. SERVICES POLICY

6.1 Services

Epic Energy offers the following Services on the DBNGP:

(a) Reference Service

The Reference Service offered by Epic Energy is Firm Service which can be either forward haul or backhaul.

(b) Non-Reference Services

- (i) The Services referred to in this sub-clause are Non Reference Services.
- (ii) Epic Energy will, subject to operational availability (as determined by Epic Energy as a reasonable and prudent pipeline operator), make available to a Prospective Shipper the following Service or Services:
 - (A) Secondary Market Service;
 - (B) Park and Loan Service;
 - (C) Seasonal Service;
 - (D) Peaking Service;
 - (E) metering information service;
 - (F) pressure and temperature control service;
 - (G) odourisation service; and
 - (H) co-mingling service.
- (iii) Non-Reference Services also include Services provided by Epic Energy under contracts entered into prior to commencement of the Access Arrangement Period.
- (iv) Revenue obtained from certain Non-Reference Services is Rebatable Revenue in accordance with clause 9.

6.2 Firm Service

Firm Service is a Service in which Epic Energy (subject to availability of Capacity):

- (a) takes receipt, at one or more Receipt Points on a Day, of a quantity of the Shipper's gas not exceeding:
 - (i) the sum of the Shipper's MDQ;
 - (ii) plus or minus the quantity of gas required to correct any Imbalance on the preceding Day;
- (b) delivers to the Shipper at one or more Delivery Points on that Day a quantity of gas not exceeding the Shipper's MDQ,

without interruption or curtailment except as permitted by the Access Contract.

Prospective Shipper's seeking access to Spare Capacity of the DBNGP as it is configured at the time of approval of this Access Arrangement must nominate a minimum term of 2 years when lodging an Access Request for Firm Service, unless Epic Energy in its absolute discretion agrees otherwise.

Prospective Shippers seeking access for Developable Capacity must nominate a minimum term of 20 years when lodging an Access Request for Firm Service, unless Epic Energy in its absolute discretion agrees otherwise.

6.3 Limitation on Upstream Delivery Points

If the Shipper's Delivery Point is upstream of the Shipper's Receipt Point ("Upstream Deliveries") and on a Day, the total quantity of gas transported for all shippers with a Delivery Point downstream of their Receipt Point is insufficient to maintain Upstream Deliveries without the need to change the normal direction of gas flow in the DBNGP, Epic Energy may restrict Upstream Deliveries in its absolute discretion without liability to the Shipper.

7. REFERENCE TARIFF POLICY

7.1 General Principles

- (a) Epic Energy's Reference Tariff has been designed to recover from Shippers using the Reference Service, that portion of the Total Revenue that reflects:
 - (i) those costs (including capital costs) which are directly attributable to the provision of the Reference Service; and
 - (ii) a share of those costs (including capital costs) which are attributable to provision of the Reference Service jointly with Services provided to Other Shippers with contractual rights existing prior to the date on which this Access Arrangement commences.
- (b) The Reference Tariff has been determined on the basis of the gas specifications prescribed in the Access Contract Terms and Conditions at the commencement of the Access Arrangement.

7.2 Calculation of Total Revenue

- (a) The Total Revenue has been calculated using the 'cost of service' ("COS") method described in section 8.4 of the Code. This basis for calculation of the Total Revenue under the COS method is outlined in clauses 7.3 to 7.9 of the Access Arrangement.
- (b) The COS method has been applied in accordance with section 8.5A(b) of the Code, on a pre-tax real basis.

7.3 Calculation of Capital Base - COS Method

- (a) The Capital Base for the DBNGP at the beginning of each year of the Access Arrangement is the physical asset account balance at the beginning of that year.
- (b) The physical asset account balance at the end of each year of the Access Arrangement Period is the physical asset account balance at the beginning of each year of the Access Arrangement Period, plus new facilities investment during the year, less the accumulated depreciation of physical assets at the end of the year.

7.4 Return on Assets - COS Method

The return on assets has been determined by multiplying the capital base at the beginning of each year of the Access Arrangement Period by the rate of return.

7.5 Calculation of Rate of Return - COS Method

- (a) The rate of return has been set as a weighted average of the returns applicable to debt and equity.
- (b) The return on equity referred to in sub-clause 7.5(a) has been determined using the capital asset pricing model.
- (c) The return on debt referred to in sub-clause 7.5(a) has been determined as the sum of a risk free rate of return and the estimated corporate debt margin.

7.6 Depreciation Schedule - COS Method

- (a) Depreciation of the physical asset account balance has been determined using the straight line method.
- (b) A separate depreciation schedule has been determined for each of the groups of physical assets that form the DBNGP.

7.7 Non-Capital Costs - COS Method

The Reference Tariff provides for the recovery of all forecast non-capital costs to the extent permitted under section 8.37 of the Code.

7.8 Forecast Capital Expenditure - COS Method

- (a) New facilities investment during the Access Arrangement Period is reasonably expected to pass the requirements of section 8.16 of the Code when the new facilities investment is forecast to occur.
- (b) For the purposes of calculating the capital base at the commencement of the next Access Arrangement Period in accordance with section 8.9 of the Code, the new facilities investment will consist only of actual new facilities investment that has occurred during this Access Arrangement Period.

7.9 Allocation of Costs between Services – COS Method

- (a) The Initial Capital Base for the DBNGP is \$1,550.00.
- (b) No costs have been allocated to the provision of Rebatable Services.
- (c) The Total Revenue has been calculated as the sum over the Access Arrangement Period of the costs in each year of the Access Arrangement Period that comprise the sum in each year of:
 - (ii) non-capital costs;
 - (iii) return on assets; and
 - (iv) depreciation.

7.10 Allocation of Costs between Services

- (a) In determining the Reference Tariff for Firm Service, costs have been allocated to Services provided to shippers with gas transportation contracts entered into prior to the commencement of the Access Arrangement, as if those shippers had been provided with Firm Service.
- (b) No costs have been allocated to the provision of Rebatable Services.

7.11 Allocation of Costs between Shippers

- (a) Costs have been allocated to Firm Service shippers on the basis of their use of the assets comprising the DBNGP.
- (b) Four groups of assets have been used in determining the Reference Tariff for Firm Service. These are:
 - (i) pipeline assets;
 - (ii) compressor station assets;
 - (iii) metering assets;
 - (iv) other assets.
- (c) For the purpose of determining the Reference Tariff for Firm Service, the DBNGP has been divided into 12 Zones.
- (d) There are four components to the Reference Tariff for Firm Service:
 - (i) Pipeline Capacity Charge;
 - (ii) Compression Capacity Charge;
 - (iii) Compressor Fuel Charge; and

- (iv) Delivery Point Charge.
- (e) The Pipeline Capacity Charge recovers from each Firm Service shipper a proportion of the return and depreciation on, and a proportion of the non-capital costs incurred in operating and maintaining:
 - (i) the pipeline assets in the Zone in which the Shipper's Receipt Point is located;
 - (ii) the pipeline assets in the Zone in which the Shipper's Delivery Point/s is located;
 - (iii) the pipeline assets in the Zones located between the Zone in which the Shipper's Receipt Point is located and the Zone in which the Shipper's Delivery Point is located;
 - (iv) facilities associated with the Delivery Points (but only in respect of non-capital costs incurred in operating and maintaining such facilities); and
 - (v) other assets, plus other costs associated with providing Firm Service not otherwise recovered by the charges referred to in sub-clauses 7.11(d)(ii) to (iv).

The return on pipeline assets and depreciation in a Zone, and the costs of operating and maintaining assets in that Zone, are recovered on the basis of the Shipper's MDQ as a proportion of the sum of the MDQ's of all Firm Service Shippers (or Shippers deemed to be Firm Service Shippers under sub-clause 7.10(a)) in the Zone.

Other assets return and depreciation, and the costs of operating and maintaining other assets are also recovered on the basis of the Shipper's MDQ as a proportion of the sum of the MDQ's of all Firm Service Shippers (or Shippers deemed to be Firm Service Shippers under sub-clause 7.10(a)) in the Zone.

- (f) The Compression Capacity Charge recovers from each Firm Service Shipper a proportion of the return and depreciation on, and a proportion of the non-capital costs incurred in, maintaining, Compressor Stations located between the Shipper's Receipt Point and the Shipper's Delivery Point.

Compressor Station asset return and depreciation, and the costs of operating and maintaining a Compressor Station are recovered on the basis of the Shipper's MDQ as a proportion of the sum of the MDQ's of all Firm Service Shippers (or Shippers deemed to be Firm Service Shippers under sub-clause 7.10(a)) using the Compressor Station.

- (g) The Compressor Fuel Charge recovers from each Firm Service Shipper a proportion of the cost of the compressor fuel used at Compressor Stations located between the Shipper's Receipt Point and the Shipper's Delivery Point.

The cost of compressor fuel forecast to be used at a Compressor Station is recovered on the basis of taking the forecast cost of compressor fuel forecast to be used by the Compressor Station during 2000 and dividing that by the forecast aggregate quantity of gas delivered through the Compressor Station during 2000. The forecast aggregate quantity of gas delivered is for Firm Service and for Services provided to Other Shippers with contractual rights existing prior to the date on which this Access Arrangement commences.

Firm Service shippers making Upstream Deliveries will not incur the Compressor Fuel Charge unless those Upstream Deliveries cause a change in the normal direction of gas flow in the DBNGP.

- (h) The Delivery Point Charge recovers from shippers using a particular Delivery Point the return on the metering assets at the Delivery Point and the depreciation on those assets.

7.12 Form of Regulation

A 'price path' approach as described in section 8.3 of the Code is the manner in which the Reference Tariff will vary within the Access Arrangement Period. Each of the Reference Tariff components listed in sub-clause 7.11(d) will be increased at 1 January in each of the second and subsequent years of the Access Arrangement Period in accordance with the following formula.

$$TC_t = TC_{t-1} \times \left(1 + \left(0.67 \times \left(\frac{CPI_{t-1}}{CPI_{t-2}} - 1 - X \right) \right) \right)$$

where:

TC_t = Reference Tariff component in year t , where year t is each of the years 2001, 2002, 2003, 2004;

TC_{t-1} = Reference Tariff component in the year preceding year t ;

CPI_{t-1} = the Consumer Price Index (All Groups, Eight Capital City), published by the Australian Bureau of Statistics for the September quarter of the year preceding year t ;

CPI_{t-2} = the Consumer Price Index (All Groups, Eight Capital City), published by the Australian Bureau of Statistics for the September quarter of the year previous to the year preceding year t ;

$X = 0.0275$ when year t is the year 2001 and is zero otherwise.

7.13 Use of Incentive Mechanisms

- (a) The adoption of the ‘price path’ approach is intended to provide an incentive to develop the market and reduce costs.
- (b) The method described in clause 9.2 by which Epic Energy will distribute Rebatable Revenue is intended to provide an incentive to Epic Energy to develop a market for that part of the DBNGP capacity which cannot otherwise be made available as Firm Service.

7.14 New Facilities Investment

Epic Energy will observe and comply with the Code requirements regarding new facilities investment.

7.15 Adjustment of Tariff

The Reference Tariff may also be varied pursuant to Clause 16 of the Access Contract Terms and Conditions.

7.16 Reference Tariff Principles Not Subject to Review

The methodology for determination of the Capital Base at the commencement of each year of the Access Arrangement Period as set out in clause 7.3 is a Fixed Principle in accordance with section 8.47 of the Code.

7.17 Rebate of Delivery Point Charges

- (a) In relation to a Delivery Point for which some or all of the capital costs were provided by a Shipper (‘Funding Shipper’), any revenue received by Epic Energy from other Shippers (‘Paying Shippers’) for the Delivery Point Charge relating to the relevant Delivery Point will be rebated to the Funding Shipper in accordance with the rebate formula contained in the agreement between Epic Energy and the Funding Shipper relating to the funding of that Delivery Point. If there is no rebate mechanism contained in the agreement between Epic Energy and the Funding Shipper, Epic Energy must rebate to the Funding Shipper 95% of the Delivery Point Charge payable by the Paying Shipper.
- (b) A Funding Shipper will not be required to pay the Delivery Point Charge in respect of any Delivery Point it funded.

7.18 Levelised Tariff Path Commitment

If the conditions in clause 12.1 are satisfied and the Total Revenue is calculated on a COS method, the Reference Tariff to be paid by Shippers will never exceed the tariff derived by applying the price path referred to in clause 7.12 to the initial Reference Tariff.

7.19 Goods and Services Tax

From 1 July 2000, the component charges of the Reference Tariff are specified inclusive of Goods and Services Tax ("GST"). The GST-inclusive charges are calculated by multiplying each charge exclusive of GST by a factor of 1.0997752.

8. REFERENCE TARIFF STRUCTURE AND CHARGES

8.1 Structure

The Reference Tariff for Firm Service comprises several components which apply depending on the location of the Shipper's Receipt Point and Delivery Point. The components are:

- (a) A Pipeline Capacity Charge;
- (b) A Compression Capacity Charge;
- (c) A Compressor Fuel Charge (for compressor stations other than CS1 and CS2); and
- (d) A Delivery Point Charge.

8.2 Charges

The charges for Firm Service are as set out in and calculated in accordance with the Tariff Schedule.

8.3 Application of Charges

- (a) The Pipeline Capacity Charge is the aggregate of the Shipper's Delivery Point MDQ or Delivery Point MDQ's multiplied by the sum of the relevant rates set out in the Tariff Schedule for the pipeline zones between the Receipt Point and Delivery Point for the Shipper's Access Contract.
- (b) The Compression Capacity Charge is the aggregate of the Shipper's Delivery Point MDQ or Delivery Point MDQ's multiplied by the sum of the relevant rates set out in the Tariff Schedule for each Compressor Station located between the Shipper's Receipt Point and Delivery Point.
- (c) The Compressor Fuel Charge is the aggregate of the quantity of gas delivered to Shipper at a Delivery Point or Delivery Points multiplied by the sum of the relevant rates set out in the Tariff Schedule for each Compressor Station located between the Shipper's Receipt Point and Delivery Point.
- (d) The Delivery Point Charge is an annual fixed charge which recovers the cost of the delivery point facilities used by the Shipper. Where gas is delivered to more than one shipper at a delivery point, the Delivery Point Charge is shared between shippers on the basis of the total Shippers' MDQs at the Delivery Point.

9. REBATABLE REVENUE

9.1 Description

- (a) Revenue obtained from the following Services is Rebatable Revenue:
 - (i) Seasonal Service;
 - (ii) Park and Loan Service;
 - (iii) Secondary Market Service; and
 - (iv) any other Service nominated by Epic Energy
- (b) Additionally, revenue (less the Compressor Fuel Charge) obtained by Epic Energy from Overrun to the extent provided under clause 5.2 (a) of the Access Arrangement Terms and Conditions is Rebatable Revenue.
- (c) Revenue obtained by Epic Energy in the circumstances referred to in clause 7.17 of the Access Arrangement will be rebated in accordance with that clause 7.17 but is not included as part of the Rebatable Revenue for the purposes of this clause.

9.2 Method of Rebate

(a) Interpretation

“Rebatable Revenue” or “RR” for a year is the sum of the revenue from rebatable services in the year.

“Prior Revenue” or “PR” for the year is the total revenue from capacity reservation charges and commodity charges, and the like, in the year from Prior Contracts.

“Prior Contracts” means contracts (other than for T3 capacity, as defined in the Dampier to Bunbury Regulations 1998) which were entered into before commencement of the Access Arrangement.

“Forecast Prior Revenue” or “FPR” means the revenue from capacity reservation charges and commodity charges and the like, that shippers under Prior Contracts would be obligated to pay in the year if they took their entire contracted capacity in the year.

“Threshold Revenue” or “TR” means:

$$TR = a_1 \times (FSC - PAC) \times C1 + a_2 \times (FSV - PAV) \times C2 - RFS + r \times Q;$$

“a₁” and “a₂” are to be obtained from the following table:

Parameter	Value
a ₁	0.895661
a ₂	0.880731

“FSC” and “FSV” for each year of the Access Arrangement are to be obtained from the following table:

Year	FSC (GJ)	FSV (GJ)
2000	217,105,650	194,482,950
2001	216,437,700	197,187,600
2002	217,112,950	197,815,400
2003	219,832,200	201,563,950
2004	221,894,450	203,702,850

“PAC” is the capacity contracted to shippers under Prior Contracts (other than Exempt Contract) for the year plus the use of capacity in the Year made by the Exempt Contract.

“PAV” is the volume of gas delivered in the year to shippers under Prior Contracts.

“C₁” is the sum of the Zone 10 pipeline capacity and compression capacity charge rates applying in the year.

“C₂” is the compressor fuel charge rate for a delivery point located between CS 10 and MLV 157A.

“RFS” is the actual revenue from the sale of the Firm Service and any other Services in the nature of a Firm Service to the extent that this does not include Services under Prior Contracts and any other Non-Reference Service which Epic Energy advised is a Rebatable Service pursuant to sub-clause 9.1(a)(iv).

“r” is \$0.40/GJ in the first year of the Access Arrangement. In subsequent years, until the Revisions Commencement Date, r shall be adjusted in accordance with clause 16.2 of the Access Arrangement Terms and Conditions.

“Q” is the amount by which the total volume of gas delivered in the year exceeds FSV for the year.

“Distributable Revenue” or “DR” means:

$$DR = (RR + PR) - (TR + FPR)$$

(b) Distribution of Rebate – COS Method

Where the Total Revenue is determined by the COS Method and where DR is greater than zero, then the amount of Rebatable Revenue equal to DR shall be distributed as follows:

- (i) 45% is to be distributed to Rebate Sharing Shippers during the year;
- (ii) 55% is to be retained by Epic Energy,

and where DR is less than or equal to zero, the Rebatable Revenue shall be retained by Epic.

9.3 Apportionment of Rebatable Revenue between Shippers of Firm Service

- (a) The amount rebated to Rebate Sharing Shipper’s pursuant to sub-clause 9.2(b) is to be the ratio that the Rebate Sharing Revenue received from that Shipper for a Year bears to the total Rebate Sharing Revenue received during that Year.

Example:

Rebate Sharing Revenue from all Rebate Sharing Shippers during the Year = \$500

Rebate Sharing Revenue from Rebate Sharing Shipper “X” during the Year = \$50

Rebate Sharing Shipper “X’s” share of Rebate Sharing Revenue (under sub-clause 9.2(a)) is 10%

- (b) In calculating the Rebate Sharing Revenue received from Rebate Sharing Shippers that is referred to in sub-clause 9.3(a), no account is to be had of revenue other than Pipeline Capacity Charges, Compression Capacity Charges and Overrun Charges referred to in clause 5.2(a) of the Access Contract Terms and Conditions.

9.4 Rebate to Rebate Sharing Shippers is by Way of Discount

- (a) Any amounts due to a Rebate Sharing Shipper pursuant to sub-clause 9.2(b)(ii)(A) will be deducted from the amount which would otherwise be payable under Shipper's next invoice following calculation of the Rebateable Revenue at the end of a Year.
- (b) If the Rebate Sharing Shipper is no longer a Shipper of a Service, then the Rebate Sharing Shipper may elect to either take the amount as a cash payment or leave the amount with Epic Energy to hold and credit against an Invoice for Services used by Shipper in the future.

9.5 Rebate of Certain Charges

- (a) If a Shipper is required to pay any of the following Charges to Epic Energy, Epic Energy shall provide a rebate to all other Shippers for Firm Service and Services in the nature of Firm Service (but excluding services under Prior Contracts) ('Charge Revenue Rebate Shippers') an amount calculated in accordance with the formula contained in sub-clause 9.5(b):
 - (i) Out of Specification Gas Charge ('OSGC');
 - (ii) Nomination Surcharge ('NS');
 - (iii) Excess Imbalance Charge ('EIC')
 - (iv) Peaking Surcharge ('PS'); and
 - (v) Unavailability Charge ('UC').
- (b) $CRR = 0.95 \times (OSGC + NS + EIC + PS + UC)$

Where:

"CRR" means the Charge Revenue Rebate.

- (c) Any amounts due to a Charge Revenue Rebate Shipper pursuant to sub-clause 9.5(a) will be deducted from the amount which would otherwise be payable under the Shipper's next Invoice following calculation of the CRR at the end of a Year.
- (d) If the Charge Revenue Rebate Shipper is no longer a Shipper of a Service, then the Charge Revenue Rebate Shipper may elect to either take the amount as a cash payment or leave the amount with Epic Energy to hold and credit against an Invoice for Services used by the Shipper in the future.
- (e) The amount of CRR rebated to each Charge Revenue Rebate Shipper is to be the ratio that the Charge Revenue Rebate Shipper's daily average total capacity (expressed in GJ per Day) contracted by that Charge Revenue Rebate Shipper on the DBNGP pursuant to its Access Contract in the year to which the CRR calculation relates, to the daily average total of all contracted capacity (expressed in GJ/day) on the DBNGP under the Access Arrangement (except for Prior Contracts) in that year.

10. TERMS AND CONDITIONS

- 10.1 The terms and conditions upon which Epic Energy will grant parties access to Firm Service in the DBNGP are those terms and conditions contained in the Access Contract Terms and Conditions as amended or varied from time to time in accordance with clause 10.3. Any term used in this Access Arrangement that is defined in the Access Contract Terms and Conditions has the same meaning.
- 10.2 At the date of this Access Arrangement, the Access Contract Terms and Conditions are set out in Annexure B.
- 10.3 Epic Energy may vary the Access Contract Terms and Conditions in accordance with section 2 of the Code.

11. TRADING POLICY

11.1 Bare Transfer

Epic Energy will permit a Bare Transfer of an Access Contract in accordance with section 3.10 of the Code.

11.2 Conditional Transfer

Epic Energy will permit a conditional transfer of an Access Contract in accordance with the Access Contract Terms and Conditions.

11.3 Secondary Market

- (a) Epic Energy will establish a Secondary Market based on the Secondary Market Rules as amended or varied by Epic Energy from time to time.
- (b) Secondary Market Service will be available on the Secondary Market and may be provided by either Epic Energy or a Shipper of Firm Service. Shippers with unutilised Firm Service capacity will be able to “post” all or any part of that unutilised capacity for a day in the Secondary Market, and sell it to Approved Third Parties on a firm basis. Epic Energy will also offer spare capacity it may have available in the DBNGP for sale on a Day, in the Secondary Market.
- (c) The terms and conditions of Secondary Market Service will be the same as the Access Contract Terms and Conditions except as expressly modified by the Secondary Market Rules.
- (d) The establishment of the Secondary Market will provide an opportunity for all holders of Firm Service, large and small, to post their willingness to sell anticipated unutilised Capacity for a Day. Epic Energy will also post uncontracted capacity for a Day in the Secondary Market.
- (e) The price for Secondary Market Service will be the prevailing market price.
- (f) The objective of the Secondary Market is to encourage Firm Service Shippers to make unutilised capacity available to third parties. There will not be an interruptible service or an authorised overrun service available to Shippers. A Shipper’s requirements over and above its contracted capacity will need to be met (subject to availability) from the Secondary Market, but that capacity can be acquired at any time during the relevant Day.
- (g) Parties wishing to purchase capacity in the Secondary Market must either be existing Shippers or must be Approved Third Parties. The prudential requirements and criteria applicable to Prospective Shippers will also apply to parties seeking to be registered as Approved Third Parties.

11.4 Trading Imbalances

A Shipper may exchange all or part of its accumulated Imbalances with another shipper, at any time and on terms they may agree, and must give notice in writing of any such exchange to Epic Energy prior to the exchange occurring. On receipt of such written notice Epic Energy shall calculate adjustments in the Shipper’s accumulated Imbalances to reflect the exchange.

11.5 Relocation of Delivery Point MDQ

- (a) A Shipper may by notice in writing to Epic Energy request a relocation of all or any part of its MDQ from an existing Delivery Point to a new Delivery Point.
- (b) Epic Energy will approve a request for relocation made in accordance with 11.5(a) if the relocation is technically feasible and commercially reasonable.
- (c) Epic Energy may make its approval subject to conditions if they are reasonable on commercial and technical grounds (including but not limited to Operational Grounds).

- (d) A Shipper's ability to relocate its Delivery Point MDQ to another Delivery Point is subject to the rights of Other Shippers with contracted Delivery Point MDQ at that Delivery Point.
- (e) In the event that a Shipper wishes to relocate any part of its Delivery Point MDQ to a delivery point downstream of the Shipper's contracted Delivery, the relocation of MDQ may in some circumstances only be technically feasible if the equivalent downstream quantity is less than the Delivery Point MDQ the Shipper seeks to relocate.

11.6 Relocation of Receipt Point MDQ other than in Zone 1

- (a) Shipper may by notice in writing to Epic Energy request a relocation of all or any part of its MDQ from an existing Receipt Point to a new Receipt Point ("Requested Relocation").
- (b) Epic Energy will approve a request for relocation made in accordance with 11.6(a) if the relocation is technically feasible and commercially reasonable.
- (c) Epic Energy may make its approval subject to conditions if they are reasonable on commercial and technical grounds (including but not limited to Operational Grounds).
- (d) A Shipper's ability to relocate its Receipt Point MDQ to another Receipt Point is subject to the rights of Other Shippers with contracted Receipt Point MDQ at that Receipt Point.

12. EXTENSIONS/EXPANSIONS POLICY

- 12.1 If the following conditions are satisfied, Epic Energy will expand the capacity of the DBNGP and in such circumstances, the provisions of clause 7.18 will apply and no capital contribution or surcharge will be sought:
- (a) A Shipper provides Epic Energy with an Access Request that contains the following:
 - (i) The Access Request is for Firm Service.
 - (ii) The Access Request is for an Access Contract of at least 20 years in duration.
 - (iii) The proposed commencement date of the Access Contract is no earlier than 30 months after the date the Access Request is received and entered in the queue.
 - (iv) The Access Request requests capacity on the DBNGP at a Delivery Point for at least a total MDQ of 10 TJ per Day.
 - (b) There is insufficient spare capacity on the DBNGP to satisfy all of the capacity being sought under the Access Request.
 - (c) There is no dispute between the Shipper and Epic Energy in relation to the DBNGP.
 - (d) Epic Energy has not expanded the DBNGP within 12 months prior to the Access Request being received (whether as a result of an earlier Access Request being received from the Shipper or otherwise).
- 12.2 If the conditions in clause 12.1 are not satisfied Epic Energy will expand the capacity of the DBNGP to meet the gas transportation needs of Prospective Shippers where Epic Energy believes the tests in section 6.22 of the Code have been satisfied, and Epic Energy may otherwise expand the capacity in the DBNGP to meet the needs of Prospective Shippers.
- 12.3 Unless Epic Energy states otherwise, an expansion of the DBNGP is to be treated as part of the Covered Pipeline. Epic Energy shall provide written notice to the Regulator of any decision not to include any expansion or extension of the DBNGP in the Covered Pipeline.
- 12.4 If Epic Energy proposes to extend or expand the DBNGP for a purpose other than meeting its obligations to the holder of a Capacity Expansion Option, the extension or expansion is to become part of the Covered Pipeline unless Epic Energy elects otherwise. Epic Energy will give the Regulator notice of an extension or expansion which Epic Energy elects will not become part of the Covered Pipeline.
- 12.5 If an extension or expansion of the DBNGP becomes part of the Covered Pipeline, the extension or expansion will not affect the Reference Tariff before the next Revisions Commencement Date.
- 12.6 If the conditions in clause 12.1 are not satisfied, Epic Energy may from time to time seek surcharges or capital contributions from Prospective Shippers in respect of new facilities investment in accordance with sections 8.23 to 8.26 of the Code. If Epic Energy intends to levy a Surcharge on Shippers, it will provide written notice, including to the Regulator, of its intention to do so.
- 12.7 Except where Epic Energy imposes a surcharge or seeks a capital contribution, Shipper's using incremental capacity will pay the Reference Tariff.
- 12.8 To assist Prospective Shippers with their future gas transportation needs, Epic Energy may from time to time offer options for capacity on the DBNGP which require expansions ("Capacity Expansion Options").
- 12.9 A Capacity Expansion Option gives a Prospective Shipper a right to a specified quantity of capacity on the terms and conditions specified in the Capacity Expansion Option. A Capacity Expansion Option will have a purchase price to be determined by Epic Energy and is able to be traded by the Prospective Shipper to another Prospective Shipper.

13. REVIEW DATE

- (a) The Revisions Submission Date is 1 April 2004.
- (b) The Revisions Commencement Date is 1 January 2005.

DEFINITIONS

Access Arrangement means Epic Energy's access arrangement for the DBNGP as approved, varied or substituted by the Regulator;

Access Arrangement Period means the date the Regulator approves the Access Arrangement until the start of the Revisions Commencement Date;

Access Contract means a contract between Epic Energy and a Shipper for Firm Service or Non Reference Services;

Access Contract Period means the term of the Access Contract specified in the Access Request;

Access Contract Terms and Conditions means the terms and conditions for the Reference Service contained in Annexure B as may be altered or varied by Epic Energy from time to time;

Access Guide has the meaning given in sub-clause 5.1(a);

Access Request means the request for access as set out in the Access Guide;

Annexure means an annexure to this Access Arrangement;

Approved Third Party means a party approved in accordance with the procedure set out in the Access Guide;

Bare Transfer has the meaning given in the Access Contract Terms and Conditions;

Capacity means the capacity in the DBNGP to transport quantities of gas from a Receipt Point to a Delivery Point;

Capacity Expansion Option has the meaning given in clause 12;

Commencement Date means 08:00 hours on the date for commencement of the Service set out in the Access Request executed by Epic Energy

Code has the meaning given in clause 1;

Compression Capacity Charge means the compression capacity charge calculated in accordance with the Tariff Schedule;

Compressor Fuel Charge means the compressor fuel charge calculated in accordance with the Tariff Schedule;

Compressor Station/s means the compressor stations located at various intervals on the DBNGP;

Contracted Capacity means that part of the capacity which has been reserved by a Shipper or Shippers pursuant to a contract entered into with the Service Provider;

Covered Pipeline means the DBNGP and any extension or expansion of the DBNGP which becomes covered under the Access Arrangement;

CPI has the meaning given in the Access Contract Terms and Conditions;

CS# means Compressor Station 1 to 10 as the case may be on the DBNGP;

DBNGP means the Dampier to Bunbury Natural Gas Pipeline as described in clause 3;

Day has the meaning given in the Access Contract Terms and Conditions;

Delivery Point has the meaning given in the Access Contract Terms and Conditions;

Delivery Point Charge means the delivery point charge calculated in accordance with the Tariff Schedule;

Delivery Point MDQ has the meaning given in the Access Contract Terms and Conditions;

Depreciation Reserve means a reserve established by Epic Energy and which will reduce the capital base in the next Access Arrangement Period;

Depreciation Schedule means the schedule described in the Access Arrangement Information;

Developable Capacity means the difference between the Capacity and the Capacity which would be available if additions of plant and/or pipeline were made, but does not include any extension of the geographic range of the DBNGP;

Epic Energy means Epic Energy (WA) Transmission Pty Ltd (ACN 081 609 190);

Exempt Contract has the meaning given in section 96(4) of the Law;

Firm Service means the Service described in clause 6.2;

Gas Review Board means the West Australian Gas Review Board established by section 50 of the Gas Pipelines Access (Western Australia) Act 1998;

GTR's has the meaning given in clause 2.3;

Imbalance has the meaning given in the Access Contract Terms and Conditions;

MDQ has the meaning given in the Access Contract Terms and Conditions;.

Non-Reference Service means any of the Services referred to in sub-clause 6.1(b);

Other Shipper has the meaning given in the Access Contract Terms and Conditions;

Overrun has the meaning given in the Access Contract Terms and Conditions;

Paragraph means a paragraph of this Access Arrangement;

Park and Loan Service is a service where Epic Energy agrees that a Shipper may deliver a quantity of gas into the DBNGP at a Receipt Point on a Day, without the Shipper taking delivery of that gas at a Delivery Point on the same Day ("**Park Service**") OR where Epic Energy agrees that a Shipper may take a quantity of gas at a Delivery Point without supplying an equivalent quantity of gas at a Receipt Point on the same Day and consequently that gas is delivered to Shipper out of Linepack ("**Loan Service**");

Pipeline Capacity Charge means the pipeline capacity charge calculated in accordance with the Tariff Schedule;

Prescribed Fee means the non-refundable amount of \$5,000;

Prospective Shipper means a person who seeks or is reasonably likely to seek to enter into a contract for Services and includes a Shipper who seeks or may seek to enter into a contract for an additional Service;

Rebate Sharing Contract means an access contract which states that Rebate Sharing Revenue may be payable to the Shipper;

Rebate Sharing Revenue means revenue for Firm Service received from Shippers whose Access Contract provides that the Access Contract is a Rebate Sharing Contract;

Rebate Sharing Shipper means a Shipper whose Access Contract is a Rebate Sharing Contract;

Rebatable Revenue has the meaning in clause 9.1;

Rebatable Service means the Services described in clause 9.1;

Receipt Point is defined in the Access Arrangement Terms and Conditions;

Reference Service means Firm Service;

Reference Tariff means Epic Energy's reference tariff for Firm Service as set out in the Tariff Schedule;

Regulator means the regulator appointed under the Gas Pipeline Access (Western Australia) Act 1998;

Revisions Commencement Date has the meaning given in the Code;

Revisions Submission Date has the meaning given in the Code;

Seasonal Service means Capacity made available by Epic Energy in relation to a particular Month out of incremental capacity (being Capacity over and above Firm Service Capacity) available due to seasonal factors;

Secondary Market means the system of trading capacity as described in clause 11.3 and conducted by Epic Energy in accordance with the Secondary Market Rules;

Secondary Market Rules means the rules published by Epic Energy from time to time under which the Secondary Market operates;

Secondary Market Service means the Service acquired by a Shipper from the Secondary Market, as described in the Access Arrangement Information and which is subject to the Secondary Market Terms and Conditions;

Secondary Market Terms and Conditions means the terms and conditions published by Epic energy from time to time to apply to Secondary Market Service in accordance with the Secondary Market Rules and sub-clause 11.3(c);

Services means either a Reference Service or a Non-Reference Service;

Shipper means the Shipper specified in the Access Request;

Spare Capacity means:

- (i) the difference between the Capacity and the Contracted Capacity; plus
- (ii) the difference between the Contracted Capacity and the Contracted Capacity which is being used;

Tariff Schedule means the tariff schedule attached as Annexure A to the Access Arrangement;

Total Revenue means revenue calculated in the manner described in the Access Arrangement Information.

Trading Policy means the policy set out in clause 11;

Transitional Regime has the meaning given in clause 2.4;

Upstream Deliveries has the meaning given in clause 6.3;

Year has the meaning given in the Access Contract Terms and Conditions;

Zone has the meaning given in the Access Contract Terms and Conditions.

Terms used in capitals in this Access Arrangement have the same meaning as exists under the Code unless the context otherwise requires.

Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline

ANNEXURE A: REFERENCE TARIFF

**INDEPENDENT GAS PIPELINES ACCESS REGULATOR
WESTERN AUSTRALIA**

30 December 2003

ANNEXURE A
REFERENCE TARIFFS

REFERENCE TARIFF AT 1 JANUARY 2000 (EXCLUSIVE OF GOODS AND SERVICES TAX)

Pipeline Capacity Charges (\$/GJ MDQ)

Pipeline Zone											
Zone 1a	Zone 1b	Zone 2	Zone3	Zone4	Zone 4a	Zone 5	Zone 6	Zone 7	Zone 8	Zone 9	Zone 10
Incremental Charge by Pipeline Zone											
0.0102	0.0732	0.1070	0.0657	0.0744	2.7578	0.0656	0.0679	0.0782	0.0705	0.0757	0.0535
Cumulative Charge from Receipt Point in Zone 1a											
0.0102	0.0834	0.1904	0.2561	0.3305	3.0883	0.3961	0.4640	0.5422	0.6127	0.6884	0.7419

Compression Capacity Charges by Compressor Station (\$/GJ MDQ)

Compressor Station										
CS1	CS2	CS3	CS4	CS5	CS6	CS7	CS8	CS9	CS10	
Incremental Charge by Compressor Station										
0.0127	0.0146	0.0202	0.0118	0.0215	0.0204	0.0126	0.0203	0.0187	0.0129	
Cumulative Charge from Receipt Point in Zone 1a										
0.0127	0.0273	0.0475	0.0593	0.0808	0.1012	0.1138	0.1341	0.1528	0.1657	

Compressor Fuel Charges by Compressor Station (\$/GJ throughput)

Compressor Station										
CS1	CS2	CS3	CS4	CS5	CS6	CS7	CS8	CS9	CS10	
Incremental Charge by Compressor Station										
0.0074	0.0082	0.0078	0.0078	0.0078	0.0078	0.0078	0.0081	0.0081	0.0065	
Cumulative Charge from Receipt Point in Zone 1a										
0.0074	0.0156	0.0234	0.0312	0.0390	0.0468	0.0546	0.0627	0.0708	0.0773	

Delivery Point Charge (\$/day)

Delivery Zone	Delivery Point	Charge
Zone 1a	Hamersley Iron	162.44
	Robe River	104.59
Zone 4	Carnarvon	93.92
Zone 6	Eradu Road	68.51
Zone 7	Geraldton (Nangetty Road)	89.89
	Mungarra	137.90
	Pye Road	84.72
	Mondarra	76.56
	Mount Adams Road	81.36
	Eneabba	92.92
Zone 9	Muchea	114.31
	Della Road	59.30
	Pinjar	353.37
	Ellenbrook	78.18
	Harrow Street	135.08
	Caversham	92.31
	Welshpool	142.61
	Forrestdale	140.20
	Russell Road	91.14
Zone 10	Wesfarmers LPG	
	Australian Gold Reagents	73.19
	Alcoa Kwinana	224.34
	Kwinana Power Station	409.60
	Barter Road/HiSmelt	176.27
	Mission Energy Cogeneration	72.56
	Thomas Road	111.78
	Kwinana Beach Road	98.54
	WMC	80.13
	Rockingham	88.48
	Pinjarra	85.11
	Alcoa Pinjarra	293.66
	Oakley Road	75.26
	Alcoa Wagerup	206.74
	Harvey	94.30
	Worsley	192.74
	South West Cogeneration	62.64
Kemerton	78.85	
Clifton Road	96.84	

REFERENCE TARIFF AT 1 JULY 2000 (INCLUSIVE OF GOODS AND SERVICES TAX)

Pipeline Capacity Charges (\$/GJ MDQ)

Pipeline Zone											
Zone 1a	Zone 1b	Zone 2	Zone3	Zone4	Zone 4a	Zone 5	Zone 6	Zone 7	Zone 8	Zone 9	Zone 10
Incremental Charge by Pipeline Zone											
0.0112	0.0805	0.1177	0.0723	0.0818	3.0330	0.0721	0.0747	0.0860	0.0775	0.0833	0.0588
Cumulative Charge from Receipt Point in Zone 1a											
0.0112	0.0917	0.2094	0.2817	0.3635	3.3965	0.4356	0.5103	0.5963	0.6738	0.7571	0.8159

Compression Capacity Charges by Compressor Station (\$/GJ MDQ)

Compressor Station										
CS1	CS2	CS3	CS4	CS5	CS6	CS7	CS8	CS9	CS10	
Incremental Charge by Compressor Station										
0.0140	0.0161	0.0222	0.0130	0.0236	0.0224	0.0139	0.0223	0.0206	0.0142	
Cumulative Charge from Receipt Point in Zone 1a										
0.0140	0.0301	0.0523	0.0653	0.0889	0.1113	0.1252	0.1475	0.1681	0.1823	

Compressor Fuel Charges by Compressor Station (\$/GJ throughput)

Compressor Station										
CS1	CS2	CS3	CS4	CS5	CS6	CS7	CS8	CS9	CS10	
Incremental Charge by Compressor Station										
0.0081	0.0090	0.0086	0.0086	0.0086	0.0086	0.0086	0.0089	0.0089	0.0071	
Cumulative Charge from Receipt Point in Zone 1a										
0.0081	0.0171	0.0257	0.0343	0.0429	0.0515	0.0601	0.0690	0.0779	0.0850	

Delivery Point Charge (\$/day)

Delivery Zone	Delivery Point	Charge
Zone 1a	Hamersley Iron	178.65
	Robe River	115.02
Zone 4	Carnarvon	103.29
Zone 6	Eradu Road	75.34
Zone 7	Geraldton (Nangetty Road)	98.86
	Mungarra	151.66
	Pye Road	93.17
	Mondarra	84.20
	Mount Adams Road	89.48
	Eneabba	102.19
Zone 9	Muchea	125.72
	Della Road	65.22
	Pinjar	388.63
	Ellenbrook	85.98
	Harrow Street	148.56
	Caversham	101.53
	Welshpool	156.84
	Forrestdale	154.19
	Russell Road	100.24
Zone 10	Wesfarmers LPG	
	Australian Gold Reagents	80.49
	Alcoa Kwinana	246.72
	Kwinana Power Station	450.47
	Barter Road/HiSmelt	193.86
	Mission Energy Cogeneration	79.80
	Thomas Road	122.93
	Kwinana Beach Road	108.37
	WMC	88.12
	Rockingham	97.31
	Pinjarra	93.60
	Alcoa Pinjarra	322.96
	Oakley Road	82.77
	Alcoa Wagerup	227.37
	Harvey	103.70
	Worsley	211.97
South West Cogeneration	68.89	
Kemerton	86.72	
Clifton Road	106.50	

Access Arrangement for the Dampier to Bunbury Natural Gas Pipeline

ANNEXURE B: ACCESS CONTRACT TERMS AND CONDITIONS

**INDEPENDENT GAS PIPELINES ACCESS REGULATOR
WESTERN AUSTRALIA**

30 December 2003

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1. INTERPRETATION

1.1 Definition of Terms

In these Access Contract Terms and Conditions except where the context requires another meaning:

“Access Arrangement” means Epic Energy’s access arrangement for the DBNGP as approved, varied or substituted by the Regulator;

“Access Contract” means the contract formed between Epic Energy and the Shipper when Epic Energy accepts an Access Request (by executing that Access Request), and comprises the Access Arrangement, that Access Request and the Access Contract Terms and Conditions;

“Access Guide” has the meaning given in sub-clause 5.1(a) of the Access Arrangement;

“Access Request” means the request for access to Firm Service in the form contained in the Access Guide;

“Actual Mass Flow Rate” means either a directly measured variable or a derived variable computed by multiplying the instantaneous actual volume flow of gas (measured by the Metering Equipment) by the density of the gas (either measured as the instantaneous measured density of the gas or calculated in accordance with the American Gas Association’s NX 19 or AGA 8 standards or such other gas industry standards as the parties may agree);

“Associated Delivery Point” means an associated delivery point specified from time to time in the System Description;

“Bare Transfer” means a transfer or assignment by the Shipper of its entitlement to capacity under the Access Contract in circumstances where:

- (a) the Shipper’s obligations to Epic Energy under the Access Contract remain in full force and effect after the transfer or assignment; and
- (b) the terms of the Access Contract are not altered as a result of that transfer or assignment;

“Business Day” means any Day which is not a Saturday or Sunday or public holiday in Perth;

“Capacity” means the capacity in the DBNGP to transport gas from a Receipt Point to a Delivery Point;

“Capacity Charges” means the Pipeline Capacity Charge and the Compression Capacity Charge;

“Category A gas” means gas which meets the specification for category A gas set out in Schedule 2, as may be varied from time to time by Epic Energy with the approval of the Coordinator of the Office of Energy;

“Category B gas” means gas which meets the specification for category B gas set out in Schedule 2, as may be varied from time to time by Epic Energy with the approval of the Coordinator of the Office of Energy;

“Charges” means the Pipeline Capacity Charge, Compression Capacity Charge, Compressor Fuel Charge, Delivery Point Charge and any other fee or charge payable pursuant to the Access Contract;

“Clause” means a Clause of these Access Contract Terms and Conditions;

“Commencement Date” means 08:00 hours on the date for commencement of the Service set out in the Access Request executed by Epic Energy;

“Compression Capacity Charge” means the compression capacity charge calculated in accordance with the Tariff Schedule;

“Compressor Fuel Charge” means the compressor fuel charge calculated in accordance with the Tariff Schedule;

“CPI” means the Consumer Price Index (All Groups Perth) as published from time to time by the Australian Bureau of Statistics for any Quarter and if that Index is discontinued or modified, an alternative equivalent index provided by the Australian Bureau of Statistics. If no equivalent alternative index is available, or agreed, then as determined as a financial matter by the Independent Expert;

“DBNGP” means the Dampier to Bunbury Natural Gas Pipeline as defined in the Access Arrangement;

“Day” means the 24 hour period starting at 08:00 hours on a day and ending at 08:00 hours on the following day

“Delivery Point” means the point specified in the Access Contract (there may be more than one Delivery Point specified) as a point at which the Shipper may require Epic Energy to deliver gas, or any other point at which the Shipper may require Epic Energy to deliver gas in accordance with the Access Contract and includes a Notional Delivery Point;

“Delivery Point Charge” means the delivery point charge calculated in accordance with the Tariff Schedule;

“Delivery Point MDQ” means the maximum quantity of gas that the Shipper may require Epic Energy to deliver on a Day at a single Delivery Point as specified in the Access Contract;

“Delivery Point Facilities” means the metering equipment site associated with a delivery point, and includes any facilities installed at the site, examples being overpressure protection, reverse flow protection, excessive flow protection, odourisation, gas quality monitoring, gas metering and measurement, and telemetry, and all standby, emergency and safety facilities, and all ancillary equipment and services;

“Direct Loss” means loss or damage which is not Indirect Loss;

“Dispute” means a dispute, controversy or claim in relation to the Access Contract;

“Event of Default” has the meaning given in Clause 15.1;

“Excess Imbalance Charge” means the excess imbalance charge rate set out in Schedule 1;

“Financial Matter” means a matter involving financial calculations which is capable of determination by audit or reference to financial or accounting records, knowledge or practice;

“Firm Service” has the meaning given in the Access Arrangement;

“Force Majeure” means any event or circumstance not within the control of a Party and which by the exercise of due diligence, that Party is not able to prevent or overcome.

The following will not constitute (directly or indirectly) events or circumstances of Force Majeure:

- (a) changes in market structure, operations or conditions for:
 - (i) supply, purchase or sale of gas; or
 - (ii) any good or service manufactured or provided by the Shipper;
- (b) lack of, or reduction in, gas reserves, water supply or raw materials;
- (c) commercial failure, expiration or termination for whatever reason of a contract;
- (d) lack of funds/inability to pay money; or
- (e) strikes or industrial disputes (except to the extent that such strikes or industrial disputes are not within the control of a Party and which by the exercise of due diligence, that Party is not able to prevent or overcome).

“GJ” means gigajoule;

“Governmental Agency” means any government department or any statutory, public, municipal, local or other authority (other than the Shipper) charged with the responsibility for administering any relevant legislation, regulation, ordinance or by law;

“GST” means goods and services tax;

“Imbalance” means the situation where the total quantity of gas supplied by the Shipper to Epic Energy at Receipt Points on a Day (determined in accordance with Clause 3.6) is greater than (which is a “Positive Imbalance”) or less than (which is a “Negative Imbalance”) the total quantity of gas delivered to the Shipper by Epic Energy at Delivery Points on that Day (determined in accordance with Clause 3.7);

“Imbalance Limit” means 8% of the Shippers MDQ;

“Independent Expert” means an independent expert appointed under Clause 1618.2;

“Indirect Loss” means —

- (a) any consequential loss or damage however caused, including without limitation any —
 - (i) loss of (or loss of anticipated) use, production, revenue, income, profits, business and savings; or
 - (ii) loss due to business interruption; or
 - (iii) loss or liability under a contract with a third party, whether or not the consequential loss or damage was foreseeable; and
- (b) any liability of the person to any other person, or any claim, demand, action or proceeding brought against the person by any other person, and any costs or expenses in connection with the claim, demand, action or proceeding;

“Insolvency Event” means in relation to any person:

- (a) a receiver, receiver and manager, administrator, trustee or similar official is appointed over the whole or a substantial part of the assets or undertaking of the person and is not removed within 30 Days of appointment;
- (b) the person suspends payment of its debts generally;
- (c) the person is insolvent within the meaning of the Corporations Law;
- (d) the person enters into or resolves to enter into any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them;
- (e) an application (other than a vexatious application) or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator to, the person or a resolution is passed or steps are taken to pass a resolution for the winding up or dissolution of the person otherwise than for the purpose of an amalgamation or reconstruction which has the prior written consent of the other Party and, in the case of an application, the application is not withdrawn or dismissed within 30 Days; or
- (f) an administrator is appointed under Division 2 of Part 5.3A of the Corporations Law and, except in the case of an appointment by the person or its directors, is not withdrawn or removed within 14 Days;

“Interest Rate” means the corporate overdraft reference rate for overdrafts of greater than \$100,000 (monthly charging cycle) applied from time to time by the National Australia Bank;

“MDQ” means the aggregate of the Shipper’s Delivery Point MDQ’s;

“Metering Equipment” means all equipment used to measure the physical quantity and quality of gas entering the DBNGP at a Receipt Point or exiting the DBNGP at Delivery Point, as the case may be, and all ancillary equipment required to compute derived variables and to produce printed reports at the Receipt Point or Delivery Point 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);

“Month” means a calendar month starting at 08:00 hours on the first day of the month and ending at 08:00 hours on the first day of the following month;

“MHQ” or maximum hourly quantity, has the meaning given in Clause 7.1;

“Negative Imbalance” has the meaning given in the definition of Imbalance;

“Nomination Surcharge” means the charge set out in Schedule 1;

“Notional Delivery Point” means a notional delivery point specified from time to time in the System Description;

“Operational Grounds” includes but is not limited to physical pipeline constraints, lack of Capacity, scheduled and unscheduled maintenance, compressor failure and emergency;

“Other Shipper” means a person other than the Shipper who has a contract with Epic Energy for the transport of gas on the DBNGP;

“Out-of-Specification gas” means gas which does not comply with one or more of the specifications for Category A gas at a Receipt Point or Category B gas at a Delivery Point;

“Out of Specification Gas Charge” means the charge set out in Schedule 1;

“Overrun” has the meaning given in Clause 5.1;

“Party” means Epic Energy or the Shipper as the context requires;

“Peaking Surcharge” means the charge set out in Schedule 1;

“Permissible Interruption” means an interruption of the kind described in Clause 14.1;

“Permissible Limit” means 1% of the Shipper’s MDQ multiplied by the number of Days in the Year;

“Pipeline Licence” means the pipeline licences for the DBNGP being PL 40 and the pipeline licence to be issued in respect of CS10 as may be amended, varied, substituted or added to from time to time;

“Planned Maintenance” means maintenance on the DBNGP which is scheduled in advance of the maintenance activities being undertaken;

“Positive Imbalance” has the meaning given in the definition of Imbalance;

“Previous Verification” means the verification at which the Metering Equipment was last found to be measuring the quantity of gas in accordance with these Access Contract Terms and Conditions;

“Producers” means the producers or suppliers of gas with whom the Shipper and (as the case may be) an Other Shipper has entered into a gas supply contract or contracts under which gas is to be delivered at the Receipt Point;

“Rebate Sharing Contract” means an access contract which states that Rebate Sharing Revenue may be payable to the Shipper;

“Receipt Point” means a flange, joint, or other point in Zone 1, specified in the Access Contract as a point at which Epic Energy receives gas from the Shipper, or any other point at which Epic Energy receives gas from the Shipper in accordance with the Access Contract;

“Receipt Point Facility” means a flange or joint connecting the DBNGP to the Shipper’s facilities but does not include metering equipment, which the Shipper is responsible to supply and install;

“Receipt Point MDQ” means the maximum quantity of gas that the Shipper may supply for delivery to Epic Energy at a Receipt Point on a Day as specified in the Access Contract;

“Related Body Corporate” means a related body corporate as defined in the Corporations Law;

“Schedule” means a schedule to these Access Contract Terms and Conditions;

“Secondary Market” means the system of trading capacity as described in clause 11.3 of the Access Arrangement and conducted by Epic Energy in accordance with the Secondary Market Rules;

“Secondary Market Rules” means the rules published by Epic Energy from time to time under which the Secondary Market operates;

“Secondary Market Service” means the service acquired by a Shipper from the Secondary Market which is subject to the Secondary Market Terms and Conditions;

“Secondary Market Terms and Conditions” means the terms and conditions published by Epic Energy from time to time to apply to Secondary Market Service in accordance with the Secondary Market Rules and sub-clause 11.3(c) of the Access Arrangement;

“Service” in these Access Contract Terms and Conditions means Firm Service;

“System Description” means the description of the DBNGP contained in the Access Arrangement Information;

“TJ” means Terajoule which is equal to 1000 GJ;

“Tariff Schedule” means the tariff schedule annexed to the Access Arrangement;

“Technical Matter” means a matter involving issues relating to the receipt, transportation and delivery of gas under the Access Contract which is capable of determination by reference to engineering or scientific knowledge and practice;

“Termination Date” means 08:00 hours on the date for termination of the Firm Service set out in the Access Contract;

“Unavailability Charge” means the charge set out in Schedule 1;

“Unavailability Notice” means a notice issued by Epic Energy to the Shipper (which may also have been issued to Other Shippers), stating that Epic Energy can only deliver a quantity of gas to the Shipper at a Delivery Point set out in the notice;

“Variance Notice” has the meaning given in Clause 4.4(b);

“Verification” means the process of testing Metering Equipment and components of that Metering Equipment to establish that it is measuring and registering in accordance with these Access Contract Terms and Conditions;

“Week” means a period of seven (7) consecutive Days commencing at 08:00 hours Monday;

“Year” means a period of 365 Days (except for a leap year in which case the period is 366 Days) commencing at 08:00 hours on the 1st of January and ending at 08:00 hours on the following 1st of January; and

“Zone ” means any one or more of zones 1a through 10 as more fully described in the Access Arrangement Information.

1.2 Construction

In the construction of these Access Contract Terms and Conditions, unless the context requires otherwise:

- (a) a reference to a Clause number or Schedule is a reference to a Clause or Schedule of these Access Contract Terms and Conditions;
- (b) words indicating the singular number include the plural number and vice versa;
- (c) words indicating one gender include any other gender;
- (d) headings are for convenience only and do not affect interpretation;
- (e) words indicating persons include natural persons, bodies corporate and unincorporated associations;
- (f) a reference to any statutory law extends to and includes any 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) where the Shipper comprises two or more persons, an obligation, representation or warranty of the Shipper binds, or is given by, those persons jointly and severally;
- (j) 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 is to be performed elsewhere; and
- (k) Unless specified otherwise, reference to a quantity of gas is a reference to that quantity of gas measured in GJ.

2. GAS SPECIFICATIONS

2.1 Gas to be Free from Certain Substances

Gas supplied by the Shipper at a Receipt Point or delivered to the Shipper by Epic Energy at a Delivery Point shall 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.

2.2 Gas Shall Comply with Operating Specifications

- (a) Gas supplied by the Shipper for delivery to Epic Energy at a Receipt Point shall comply with the operating specification for Category A gas, and gas delivered to the Shipper by Epic Energy at a Delivery Point shall comply with the operating specification for Category B gas.
- (b) Subject to Clause 2.2(c), the minimum and maximum temperatures and the minimum and maximum pressures at which the Shipper may supply gas to Epic Energy at a Receipt Point, and Epic Energy may deliver gas to the Shipper at the Delivery Point are those set out in Schedule 2 to these Access Contract Terms and Conditions.
- (c) The Parties may at any time agree in writing to vary any one or more of the pressures and temperatures set out in Schedule 2 to these Access Contract Terms and Conditions.

2.3 Epic Energy May Accept Out-of-Specification Gas

Epic Energy may agree with the Shipper to accept Out-of-Specification gas from the Shipper prior to that gas entering the DBNGP, on terms and conditions acceptable to Epic Energy.

2.4 Shipper's Liability for Out of Specification Gas

If any Out-of-Specification gas supplied by the Shipper enters the DBNGP without Epic Energy's prior written consent (which consent is in Epic Energy's sole discretion), then despite any other provision of these Access Contract Terms and Conditions —

- (a) the Shipper shall be liable to Epic Energy for any and all loss and damage arising from that delivery, including Indirect Damage; and
- (b) Epic Energy is, to the extent necessary to allow it to deal with that entry of gas:
 - (i) entitled to vent the Out of Specification Gas and the Shipper shall be deemed not to have supplied a quantity of gas at the Receipt Point equivalent to the quantity of all gas necessarily vented by Epic Energy; and
 - (ii) is relieved of any obligation to deliver gas to the Shipper by an amount no greater than the quantity of gas necessarily vented by Epic Energy pursuant to Clause 2.5(b)(i); and
- (c) subject to Clause 2.4(d), the Shipper shall pay Epic Energy a surcharge calculated by multiplying each GJ of that Out of Specification gas by the Out of Specification Gas Charge (which is payable in addition to the Charges).
- (d) Epic Energy shall only require the Shipper to pay the surcharge pursuant to Clause 2.4(c) where:
 - (i) the supply of Out-of-Specification Gas causes actual pecuniary loss or damage; or
 - (ii) in the reasonable opinion of the pipeline operator the supply of Out-of-Specification Gas exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.

3 RECEIPT POINTS AND DELIVERY POINTS

3.1 Supply and Installation

Epic Energy will supply and install all Receipt Point Facilities and Delivery Point Facilities for the DBNGP in accordance with the principles and standards of a reasonable and prudent pipeline operator.

3.2 Delivery Point Charge

- (a) The Shipper shall pay the Delivery Point Charge at each Delivery Point at which Epic Energy delivers gas to the Shipper.
- (b) Where Epic Energy delivers gas to the Shipper and Other Shippers at the same Delivery Point on a Day, then the Shipper's share of the Delivery Point Charge shall be the proportion that the gas delivered to the Shipper at the Delivery Point on that Day bears to the total quantity of gas delivered at that Delivery Point on that Day.
- (c) Where no gas is delivered at a Delivery Point on a Day and the Shipper is the only person with Delivery Point MDQ at that Delivery Point, then the Shipper shall pay Epic Energy the entire Delivery Point Charge in respect of that Delivery Point for that Day.
- (d) Where no gas is delivered at a Delivery Point on a Day and the Shipper and Other Shippers have Delivery Point MDQ at the Delivery Point, then the Shipper shall pay the Delivery Point Charge in the proportion that the Shipper's Delivery Point MDQ bears to the total of the Shipper's and the Other Shipper's Delivery Point MDQ's at that Delivery Point.

3.3 Relocation of Delivery Point MDQ

- (a) Shipper may by notice in writing to Epic Energy request a relocation of all or any part of its MDQ from an existing Delivery Point to a new Delivery Point ("Requested Relocation").
- (b) After receiving a notice under clause 3.3(a), Epic Energy must assess whether the Requested Relocation is commercially and technically feasible (as reasonably determined by Epic Energy).
- (c) As soon as practicable after completing its assessment under clause 3.3(b), Epic Energy must give notice in writing to the Shipper advising whether the Requested Relocation is approved or not. Epic Energy may make its approval subject to conditions if they are reasonable on commercial and technical grounds (including but not limited to Operational Grounds).
- (d) Without limiting clause 3.3(b), the Shipper's ability to relocate its Delivery Point MDQ to another Delivery Point is subject to the rights of Other Shippers with contracted Delivery Point MDQ at that Delivery Point.
- (e) Without limiting clause 3.3(b), in the event the Shipper wishes to relocate any part of its Delivery Point MDQ to a delivery point downstream of the Shipper's contracted Delivery Point, the Shipper acknowledges that the equivalent downstream quantity may be less than the Delivery Point MDQ the Shipper seeks to relocate.
- (f) Epic Energy may without liability to the Shipper, curtail deliveries of gas to the Shipper relocated under this clause 3.3, if Epic Energy is required to deliver gas to an Other Shipper at the Delivery Point and that Other Shipper has Delivery Point MDQ at the Delivery Point.

3.4 Charges

- (a) If the Shipper reaches agreement with Epic Energy under clause 3.3(c) to relocate some or all of its Delivery Point MDQ to another delivery point (which may or may not be a

Delivery Point) then the Charges payable by the Shipper will be in accordance with the Tariff Schedule.

3.5 Receipt Point Flexibility

Subject to Clause 3.6:

- (a) The Shipper may supply quantities of gas at any Receipt Point in Zone 1 on a Day (not exceeding in aggregate across all receipt points the Shipper's MDQ) provided it is operationally feasible; and
- (b) The Shipper may supply quantities of gas at a Receipt Point on a Day (not exceeding in aggregate across all Receipt Points the Shipper's MDQ) greater than those quantities specified in the Shipper's Access Contract for the Receipt Point provided it is operationally feasible.

3.5A Relocation of Receipt Point MDQ

- (a) Shipper may by notice in writing to Epic Energy request a relocation of all or any part of its MDQ from an existing Receipt Point to a new Receipt Point ("Requested Relocation").
- (b) After receiving a notice under clause 3.5A(a), Epic Energy must assess whether the Requested Relocation is commercially and technically feasible (as reasonably determined by Epic Energy).
- (c) As soon as practicable after completing its assessment under clause 3.3(b), Epic Energy must give notice in writing to the Shipper advising whether the Requested Relocation is approved or not. Epic Energy may make its approval subject to conditions if they are reasonable on commercial and technical grounds (including but not limited to Operational Grounds).
- (d) Without limiting clause 3.3(b), the Shipper's ability to relocate its Receipt Point MDQ to another Receipt Point is subject to the rights of Other Shippers with contracted Receipt Point MDQ at that Receipt Point.

3.6 Allocation of Gas at Receipt Points

- (a) Where the Shipper is the only person supplying gas to Epic Energy at a Receipt Point on a Day, the Shipper is deemed to have supplied all gas at that Receipt Point for that Day.
- (b) Subject to Epic Energy agreeing otherwise if the Shipper and any Other Shippers supply gas to Epic Energy at a Receipt Point on a Day, then the Shipper must by not later than 08.30 hours on the following Day:
 - (i) provide written confirmation from the Producers of the amount of gas supplied by the Producers to the Shipper at that Receipt Point; or
 - (ii) provide the Shipper with a copy of an agreement entered into between the Shipper and Other Shippers in relation to the Shipper's proportional share of the gas stream at that Receipt Point,and that written confirmation/agreement (as the case may be) shall be deemed to be the quantity of gas supplied by the Shipper to Epic Energy at that Receipt Point.
- (c) An agreement can be provided to Epic Energy pursuant to sub-clause 3.6(b)(ii) at any time before gas is delivered or supplied to the DBNGP by the Shipper and Other Shippers, or before 08.30 hours on the following Day, and that agreement will be held to apply until Epic Energy is otherwise advised by the Shipper.
- (d) If the Shipper fails to provide Epic Energy with a copy of the agreement under clause 3.6(b)(ii) or fails to provide written confirmation from the Producers under clause 3.6(i) by the time specified in clause 3.6(b), Epic Energy may determine that the Shipper has supplied gas to Epic Energy:
 - (i) their respective nominations at the Receipt Point; or

- (ii) any other information to which a reasonable and prudent pipeline operator would have regard.

That will be deemed to be the allocation irrespective of any subsequent notification received by Epic Energy.

3.7 Allocation of Gas at Delivery Points

- (a) Where the Shipper is the only person to take delivery of gas from Epic Energy at a Delivery Point on a Day, then the Shipper is deemed to have taken delivery of all gas delivered at that Delivery Point.
- (b) If the Shipper and any Other Shippers take delivery of gas from Epic Energy at Delivery Point on a Day, then the Shipper's proportional share of the gas stream at that Delivery Point may be determined by agreement between the Shipper and Other Shippers who take delivery of gas at that Delivery Point.
- (c) If the Shipper fails to reach agreement with Other Shippers under Clause 3.7(b) or fails to provide Epic Energy with a copy any agreement under clause 3.7(b) or Epic Energy is not notified by 08:00 hours on the following Day of the Shipper's proportional share of gas at the Delivery Point then Epic Energy may determine the proportion of gas to be attributed to the Shipper and each Other Shipper by reference to:
 - (i) their respective nominations at the Delivery Point; or
 - (ii) any other information to which a reasonable and prudent pipeline operator would have regard.

This will be deemed to be the allocation for that Day irrespective of any subsequent notification received by Epic Energy.

- (d) The Shipper shall promptly deliver to Epic Energy a copy of any agreement reached under Clause 3.7(b).

3.8 Obligation to Accept and Deliver Gas

Subject to the Access Contract Terms and Conditions:

- (a) Epic Energy must accept gas from and deliver gas to the Shipper; and
- (b) The Shipper must make gas available at the Receipt Point(s),

in accordance with the Shipper's Access Contract.

3.9 Epic Energy may refuse to accept Gas

In addition to any other rights and remedies that may be available to it under any Law or under the Access Contract or otherwise, Epic Energy may, subject to and in accordance with clause 17.2, refuse to accept Gas from the Shipper at a Receipt Point:

- (a) if Epic Energy is entitled under clause 2 (Epic Energy may refuse to accept Out-Of Specification Gas), clause 6 (Imbalance Limit), clause 6.5 (Refusal to Accept Gas or Deliver Gas), or clause 7 (Peaking)
- (b) if the Shipper is in default under this Contract as set out in clause 17 (Default by Shipper);
- (c) if Epic Energy is relieved from so doing under clause 15 (Force Majeure); or
- (d) if Epic Energy considers as a reasonable and prudent service provider that it would be unsafe to do so; or
- (e) if acceptance by Epic Energy of that Gas would cause the DBNGP to exceed its maximum allowable operating pressure.

3.10 Refusal to Deliver Gas

Subject to and in accordance with any other rights and remedies that may be available to it at Law or under the Access Contract, including without limitation clause 14 (Curtailement), Epic Energy may refuse to deliver gas to Shipper at a Delivery Point:

- (a) to the extent that Epic Energy is entitled to refuse to Deliver Gas under:
 - (i) clause 2.4 (Shipper's liability for Out-of-Specification Gas);
 - (ii) clause 6 (Imbalance Limit);
 - (iii) clause 6.5(Refusal to Accept Gas or Deliver Gas);
 - (iv) clause 7 (Peaking);
 - (v) clause 17 (Overrun); or
 - (vi) clause 17 (Default and Termination);
- (b) Epic Energy considers as a reasonable and prudent service provider that it would be unsafe to do so; or
- (c) delivery by Epic Energy of that gas would cause the DBNGP to exceed its maximum allowable operating pressure.

4. NOMINATIONS

4.1 Requests for Advance Information

- (a) Epic Energy may request and the Shipper shall provide good faith advance estimates (covering such periods and in such detail as Epic Energy may determine) of the Shipper's likely nominations at the Shipper's Receipt Points and Delivery Points on a Day or Days. Epic Energy will keep these estimates confidential.
- (b) The information provided under Clause 4.1(a) is not binding on the Shipper and Epic Energy will have no action against the Shipper if the Shipper's nominations materially differ except where the information given under Clause 4.1(a) is not given in good faith.

4.2 Weekly Nominations

- (a) The Shipper shall nominate for each Day in the Week before the nominated Week, the quantity of gas that:
 - (i) the Shipper will supply to Epic Energy at a Receipt Point; and
 - (ii) the Shipper requires Epic Energy to deliver to the Shipper at a Delivery Point, by notice to Epic Energy not later than 17:00 hours on Wednesday in the Week before the nominated Week.
- (b) Subject to Clause 3.3, the Shipper may not nominate quantities of gas on a Day at a Delivery Point in excess of the Shipper's Delivery Point MDQ and the sum of the Shipper's nominations across all the Shipper's Delivery Points shall not exceed the Shipper's MDQ.
- (c) The Shipper's nominations across all Receipt Points on a Day shall not (subject to Clause 6.1) exceed the Shipper's MDQ.

4.3 Daily Nominations

- (a) Subject to Clause 4.2 (b) and Clause 4.2(c), the Shipper may by notice to Epic Energy by not later than 14:00 hours on a Day, amend the nominations given under Clause 4.2(a) for the following Day.
- (b) If the Shipper does not make any amendments to the nomination for the Day under Clause 4.3(a), then the Shipper's nomination under Clause 4.2(a) shall be used for the Day.

4.4 Nominations shall be Given in Good Faith

- (a) The Shipper's nominations provided to Epic Energy pursuant to Clause 4.2 and Clause 4.3 shall be made in good faith.
- (b) If Epic Energy as a reasonable and prudent pipeline operator believes that the Shipper is not making nominations pursuant to Clause 4.2 and Clause 4.3 in good faith, then Epic Energy may give a notice to the Shipper ("Variance Notice") requiring the Shipper to nominate in good faith.
- (c) Subject to Clause 4.4(d), if at the expiry of 21 Days from receipt of a Variance Notice:
 - (i) the quantity of gas supplied by the Shipper at a Receipt Point on a Day; or
 - (ii) the quantity of gas delivered to the Shipper by Epic Energy at a Delivery Point on a Day,

varies by more than 10% of the Shipper's nomination at that Receipt Point or that Delivery Point on that Day, then the Shipper shall pay Epic Energy the Nomination Surcharge for each GJ of gas:
 - (iii) supplied by the Shipper to Epic Energy at a Receipt Point on a Day; or

- (iv) delivered to the Shipper by Epic Energy at a Delivery Point on a Day, in excess of, or below, the Shipper's nomination for that Day at that Receipt Point or that Delivery Point until such time as the Variance Notice is withdrawn.
- (d) Epic Energy shall only require the Shipper to pay the surcharge pursuant to Clause 4.4(c) where:
 - (i) the failure to nominate in good faith causes actual pecuniary loss or damage; or
 - (ii) in the reasonable opinion of the pipeline operator the failure to nominate in good faith exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.
- (e) If Epic Energy has issued the Shipper with a Variance Notice, Epic Energy:
 - (i) may withdraw that Variance Notice at any time in its discretion; and
 - (ii) shall withdraw that Variance Notice if a period of 3 consecutive Months has elapsed without the Shipper incurring the Nomination Surcharge.

5. OVERRUN

5.1 Overrun Quantities

Any gas delivered to the Shipper:

- (a) at a Delivery Point in excess of the Shipper's Delivery Point MDQ; or
- (b) at Delivery Points which in aggregate exceeds the Shipper's MDQ,

is Overrun.

5.2 Overrun Charge

- (a) Subject to Clause 5.3 and 5.4, if the aggregate quantity of gas delivered to the Shipper on a Day is within the Shipper's MDQ, then the Shipper shall pay for Overrun as follows:

- (i) if the Overrun occurs within a zone in which the Shipper has more than one Delivery Point MDQ, and the aggregate quantity of gas delivered to the Shipper in that zone is within the Shipper's aggregate Delivery Point MDQ in that zone, then no further Charges are payable by the Shipper in respect of that Overrun;

Example: The Shipper has two Delivery Point MDQ's for separate Delivery Points within zone 9. First Delivery Point MDQ is 5TJ and second delivery point MDQ is 10TJ. If 15TJ is delivered to first Delivery Point and 0TJ to second Delivery Point, the Shipper pays no additional Charges.

- (ii) if the Overrun occurs within a zone in which the Shipper has only one Delivery Point MDQ, and the Shipper has a Delivery Point MDQ or Delivery Point MDQ's in a zone upstream of the zone in which the Overrun occurs, then the Shipper shall pay additional Capacity Charges as if the capacity had been relocated downstream from the unutilised Delivery Point MDQ, calculated at 110% of the Capacity Charges otherwise payable.

Example: The Shipper has Delivery Point MDQ of 10TJ/Day in zone 8 and Delivery Point MDQ of 5TJ/Day in zone 9. Epic Energy delivers to the Shipper 5 TJ in zone 8 and 10TJ in zone 9. The Shipper pays 110% of the additional zone 9 Capacity Charges for the 5 TJ delivered to zone 9.

- (b) Subject to Clause 5.3 and 5.4, if the aggregate quantity of gas delivered to the Shipper on a Day exceeds the Shipper's MDQ, then the Shipper shall pay the greater of:

- (i) 110% of the Capacity Charges which would otherwise be payable for each GJ of gas delivered to the Shipper at the Delivery Point in excess of the Shipper's Delivery Point MDQ at that Delivery Point if that quantity had been part of the Shipper's Delivery Point MDQ for that Delivery Point; or
- (ii) 110% of the highest price (or its equivalent based on the location of the Delivery Point) paid on the Secondary Market on that Day.

Example: the Shipper delivers 20TJ in a Day to a Delivery Point in zone 8 at which the Shipper's Delivery Point MDQ is 15TJ/Day and the Shipper has no other Delivery Point MDQ's or if the Shipper has other Delivery Points the Shipper has delivered to those Delivery Point MDQ's. The Shipper pays 110% of the Capacity Charges and full Compressor Fuel Charge for the delivery of 5TJ to zone 8 unless the Secondary Market price for that Day is higher, in which case the Secondary Market Price applies instead. The Compressor Fuel Charge is charged as normal ie on the 20TJ delivered to the Delivery Point.

- (c) Nothing in Clause 5.2(a) or clause 5.2(b) affects the liability of the Shipper to pay the Compressor Fuel Charge of the Delivery Point Charge in accordance with the Tariff Schedule.

5.3 Interruptibility and Liability

- (a) The Shipper has no right or entitlement to Overrun and therefore Overrun is interruptible in the absolute discretion of Epic Energy;
- (b) If Epic Energy interrupts any Other Shipper, directly or indirectly as a result of the Shipper taking Overrun, then the Shipper is liable for all loss or damage (including Indirect Loss) suffered by Epic Energy or the Other Shipper subject to Epic Energy and the Other Shipper taking all reasonable steps possible to mitigate any losses occurring.

5.4 Unavailability Notice

Subject to Clause 5.4(b), if Epic Energy issues an Unavailability Notice, then without limiting Clause 5.3,

- (a) the Shipper shall pay the Unavailability Charge for each GJ of gas delivered to the Shipper at a Delivery Point, or in aggregate as the case may be, in excess of the quantity specified in the Unavailability Notice.
- (b) Epic Energy shall only require the Shipper to pay the Unavailability Charge pursuant to Clause 5.4(a) where:
 - (i) the delivery to the Shipper at a Delivery Point, or in aggregate as the case may be, in excess of the quantity specified in the Unavailability Notice causes actual pecuniary loss or damage; or
 - (ii) in the reasonable opinion of the pipeline operator the delivery to the Shipper at a Delivery Point, or in aggregate as the case may be, in excess of the quantity specified in the Unavailability Notice exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.

6. IMBALANCES

6.1 Daily Balancing

For the purposes of determining the Shipper's Imbalance for a Day:

- (a) If there is a Positive Imbalance for a Day then the Shipper is deemed to have supplied the quantity of gas comprising the Positive Imbalance on the next Day in priority to other gas supplied by the Shipper at a Receipt Point/s; and
- (b) If there is a Negative Imbalance for a Day then the Shipper is deemed not to have supplied any gas to Epic Energy at a Receipt Point/s on the next Day until the Negative Imbalance is cleared.

6.2 Shipper's Obligation to Balance

It is the Shipper's obligation to ensure that the absolute value of its Imbalance does not exceed the Shipper's Imbalance Limit. Epic Energy is entitled to charge the Shipper in accordance with Clause 6.4 irrespective of whether or not Epic Energy has given the Shipper notice that the Shipper's Imbalance Limit has been exceeded.

6.3 Provision of Notice

Without limiting Clause 6.2, Epic Energy will use its reasonable endeavours to provide the Shipper with notice if the Shipper's Imbalance Limit is exceeded, as soon as possible after Epic Energy becomes aware of such. This may be by way of posting on the Electronic Bulletin Board.

6.4 Excess Imbalance Charge

- (a) Subject to Clause 6.4(b), if the absolute value of the Shipper's Imbalance at the end of a Day exceeds the Shipper's Imbalance Limit, then the Shipper shall pay the Excess Imbalance Charge for each GJ of gas by which the absolute value of such Imbalance exceeds the Shipper's Imbalance Limit, except where the Shippers imbalance is caused by a party other than the Shipper.
- (b) Epic Energy shall only require the Shipper to pay the Excess Imbalance Charge pursuant to Clause 6.4(a) where:
 - (i) the Shipper's Imbalance causes actual pecuniary loss or damage; or
 - (ii) in the reasonable opinion of the pipeline operator the Shipper's Imbalance exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.

6.5 Refusal to Accept Gas or Deliver Gas

If Epic Energy acting as a reasonable and prudent pipeline operator determines that the quantum of the Shipper's Imbalance is such that the operation or integrity of the DBNGP may be compromised, then Epic Energy may without liability to the Shipper:

- (a) refuse to accept gas from the Shipper at a Receipt Point or deliver gas to the Shipper at a Delivery Point; and
- (b) take such action as it deems necessary to enforce its rights under this Clause 6.5 including physically curtailing receipts and deliveries of gas.

6.6 Trading Imbalances

The Shipper may exchange all or part of its accumulated Imbalances with another Shipper, at any time and on terms they may agree, and must give notice in writing of any such exchange to Epic Energy prior to the exchange occurring. On receipt of such written notice Epic Energy shall calculate adjustments in the Shipper's accumulated Imbalances to reflect the exchange.

7. PEAKING

7.1 Hourly Peaking

- (a) Without limiting Clause 6, the Shipper may take hourly delivery of quantities of gas (“MHQ”) at a Delivery Point on a Day not exceeding 120% of one twenty-fourth of the Shippers Delivery Point MDQ at that Delivery Point.
- (b) Subject to Clause 7.1(c), Epic Energy may require the Shipper to pay, and the Shipper shall if so required pay, the Peaking Surcharge for each GJ of gas by which the Shipper has exceeded the Shipper’s MHQ in aggregate across all of that Shipper’s Delivery Points:
 - (i) for zones 1-9 - in a pipeline zone; or
 - (ii) for zone 10 - on a single lateral pipeline in the zone.
- (c) Epic Energy shall only require the Shipper to pay the Peaking Surcharge pursuant to Clause 7.1(b) where:
 - (i) the Shipper’s Peaking causes actual pecuniary loss or damage; or
 - (ii) in the reasonable opinion of the pipeline operator the Shipper’s Peaking exposes the pipeline to a significant risk (whether or not that risk becomes manifest) that threatens the integrity of the pipeline.
- (d) Clause 7.1(a) does not alter or affect the Shipper’s MDQ.

7.2 Refusal to Accept Gas

Epic Energy may, as a reasonable and prudent pipeline operator and without liability to the Shipper, refuse to deliver gas to the Shipper at a Delivery Point, at any time that the Shipper exceeds the Shipper’s MHQ.

8. INVOICING AND PAYMENT

8.1 Monthly Invoicing

Epic Energy will provide to the Shipper an invoice or invoices for the Month just ended showing —

- (a) the quantity of gas received by Epic Energy from the Shipper at each Receipt Point and the quantity of gas delivered by Epic Energy to the Shipper at each Delivery Point on each Day for that Month;
- (b) the Pipeline Capacity Charge and the Compression Capacity Charge payable in advance for the next Month;
- (c) the Compressor Fuel Charge and the Delivery Point Charge for that Month;
- (d) all other amounts which under the Access Contract are payable in arrears or refundable for the Month including any charges in schedule 1; and
- (e) any outstanding amounts (whether those amounts were originally payable in arrears or advance) from previous Months and the interest payable thereon.

8.2 Payment by the Shipper

The Shipper will pay each invoice by direct payment to a bank account nominated by Epic Energy within 14 Days of receipt of the invoice from Epic Energy.

8.3 Shipper's Dispute

If the Shipper disputes part or all of an Invoice:

- (a) the Shipper shall, within 7 Days after receipt of the Invoice, notify Epic Energy in writing specifying the amount in dispute and the reasons for the dispute; and
- (b) the Shipper shall pay in accordance with Clause 8.2 that part of the Invoice not in dispute; and
- (c) the Shipper may, subject to Clause 8.4, withhold that part of the Invoice in dispute; and
- (d) each Party will:
 - appoint an officer to meet with the other Party's officer to try to resolve the dispute and if the officers are unable to resolve the dispute within 7 Days then either Party may refer the matter to an Independent Expert for determination in accordance with Clause 18.

8.4 Interest on Disputed or Incorrect Amount

If, as a result of the resolution of:

- (a) a dispute of the nature described in Clause 8.3; or
- (b) an incorrect Invoice as described in Clause 8.5,
 - either Party has an obligation to pay an amount to the other Party, then the amount shall be paid within 14 Days after the Day of resolution together with interest on that amount calculated on a daily basis at the Interest Rate from:
- (c) in the case of the Shipper, the date the amount should have been paid in accordance with this Clause 7; or
- (d) in the case of Epic Energy, the date Epic Energy received the payment from the Shipper.

8.5 Incorrect Invoices

(a) If the Shipper:

- (i) has been overcharged or undercharged; and
- (ii) has paid the Invoice(s) to which the overcharge(s) or undercharge(s) relate(s),

then, within 14 Days after the error has been discovered and the amount has either been agreed by the Parties or determined pursuant to Clause 8.2, either:

- (iii) Epic Energy will repay to Shipper the amount of the overcharge (together with interest in accordance with Clause 8.4); or, as the case may be;
- (iv) the Shipper will pay to Epic Energy the amount of the undercharge (together with interest in accordance with Clause 8.4).

- (b) A Party may not claim from the other any amount overcharged or undercharged if more than 18 Months have elapsed since the date of the Invoice in question.

8.6 Default Interest

If either Party fails, without lawful excuse, to pay any amount due then that Party will pay interest on the overdue amount, calculated on a daily basis at the Interest Rate plus 2% per annum, from the due date for payment until actual payment.

9. RIGHTS OF EPIC ENERGY

9.1 Commingling of Gas

Epic Energy will have the right to commingle gas supplied by the Shipper with other gas in the DBNGP.

9.2 Processing

Epic Energy may compress, cool, heat, clean and apply other processes to gas consistent with its operation of the DBNGP.

9.3 Operation of Pipeline System

Subject to its obligations under the Access Contract, Epic Energy reserves the right to decide the manner in which it will operate the DBNGP.

9.4 Delivery of Gas

Epic Energy may satisfy its obligation to deliver gas to the Shipper by using a gas pipeline other than the DBNGP.

10. CONTROL, POSSESSION AND TITLE TO GAS

10.1 Warranty of Title

The Shipper warrants that at the time it supplies gas to Epic Energy at a Receipt Point, the Shipper has good title to the gas free and clear of all liens, encumbrances and claims of any nature inconsistent with Epic Energy's operation of the DBNGP.

10.2 Control, Possession, Responsibility and Title of Shipper

The Shipper warrants to Epic Energy at each relevant time that the Shipper:

- (a) is in control and possession of the gas immediately prior to its supply at a Receipt Point and immediately after its delivery to the Shipper at a Delivery Point; and
- (b) has legal responsibility and liability for gas while it is within the control and possession of the Shipper.

10.3 Title, Custody, Control and Responsibility of Epic Energy

Epic Energy will:

- (a) take title to and have custody and control of gas from the receipt of gas from the Shipper at a Receipt Point until delivery of gas to the Shipper at a Delivery Point; and
- (b) have legal responsibility and liability for gas only while it is within Epic Energy's custody and control.

11. NOTIONAL DELIVERY POINTS

11.1 Determination of Notional Delivery Points

Epic Energy may from time to time determine that there is a Notional Delivery Point between the DBNGP and a gas distribution system.

11.2 Aggregation of Associated Delivery Points

Gas delivered at the Notional Delivery Point on a Day will be deemed to equal the aggregate of all gas delivered at Associated Delivery Points on that Day.

11.3 Amendment of Access Contract to Reflect Notional Delivery Point

If the Shipper has Delivery Point MDQ at a Delivery Point which subsequently becomes an Associated Delivery Point, then the Shipper's Access Contract is amended to substitute the Notional Delivery Point associated with the Associated Delivery Point, for the Delivery Point.

11.4 Location of Delivery Point

A Notional Delivery Point is deemed to be located at the most downstream Associated Delivery Point.

11.5 Multiple Transmission Systems

Where gas is delivered to a distribution network (to which the DBNGP is connected) by a gas transmission system other than the DBNGP, the quantities of gas measured at a Notional Delivery Point will need to take into account arrangements between Epic Energy, that other gas transmission system and the operator of that distribution network and any agreement reached between them from time to time. Epic Energy will notify the Shipper of any such arrangement or agreement prior to the time the Shipper becomes subject to any contractual obligation that may be affected by those arrangements or agreement.

12. METERING

12.1 Shippers Responsibility

The Shipper shall:

- (a) after first consulting Epic Energy, supply, install, operate and maintain Metering Equipment immediately upstream of each Receipt Point at which it supplies gas to Epic Energy, in good working order and condition and in accordance with the standard of a reasonable and prudent person; and
- (b) ensure that at all times all data required by Epic Energy from Metering Equipment at each Receipt Point is electronically accessible by Epic Energy.

12.2 Epic Energy's Responsibility

Epic Energy shall:

- (a) supply, install, operate and maintain Metering Equipment at each Delivery Point in good working order and condition and in accordance with the principles and standards of a reasonable and prudent pipeline operator; and
- (b) calculate and record —
 - (i) the quantity of gas supplied to Epic Energy by the Shipper; and
 - (ii) the quantity of gas delivered to the Shipper by Epic Energy.
- (c) provide the information referred to in clause 12.2(b) to the Shipper and any other metering information as is available to Epic Energy, which can reasonably be provided to the Shipper and which Epic Energy reasonably determines is necessary to enable the Shipper to assess its potential liability for Charges.

12.3 Metering Design, Adjustment, Operation and Verification

Subject to Epic Energy agreeing otherwise, Metering Equipment shall be designed, adjusted, operated and verified in accordance with Schedule 3.

12.4 Approval of Receipt Point Metering Equipment

- (a) The Shipper shall —
 - (i) prior to commencing the construction, installation or modification of any Receipt Point Metering Equipment or any component thereof; and also
 - (ii) prior to the commissioning of any newly constructed, installed or modified Receipt Point Metering Equipment or any component thereof,

obtain Epic Energy's written approval of, or of any amendment to, the design, location and construction of, and the proposed operating and maintenance procedures in relation to, that equipment or component.
- (b) Epic Energy will, after receipt of a valid notice of the anticipated date of commencement, use all reasonable endeavours, before that anticipated date, to consider and to give notice to the Shipper of Epic Energy's approval of or refusal to approve the Receipt Point Metering Equipment.

12.5 Inaccurate Equipment

- (a) If the Verification of Metering Equipment in accordance with Schedule 3 reveals that it is operating outside the prescribed limits of uncertainty but is measuring the quantity of gas with an inaccuracy of less than or equal to —
 - (i) plus or minus 1.5% for Metering Equipment with a design flow of 5 TJ/d or greater; and

(ii) plus or minus 3% for Metering Equipment with a design flow of less than 5 TJ/d, then the measurements from that Metering Equipment are by force of this Clause to be taken to be correct.

(b) If the Verification of Metering Equipment pursuant to Schedule 3 reveals that any Metering Equipment is measuring the quantity of gas with an inaccuracy of greater than the relevant limit prescribed by Clause 12.5(a)(i) or (ii), then (unless the parties agree otherwise) all measurements affected or potentially affected by that inaccuracy are to be determined in accordance with Clause 12.6.

12.6 Correction of measurements

(a) If at any time, any of the Metering Equipment is found to be registering inaccurately, it will be adjusted as soon as reasonably possible to its specification. The reading of such Metering Equipment will be corrected for any period of inaccuracy ("Correction Period") which is definitely known or agreed upon, If the Correction Period is not known or cannot be agreed by the parties, the Correction Period will not extend beyond one half of the time elapsed since the date of the Previous Verification.

(b) Measurement during the Correction Period will be determined by Epic Energy on the basis of the best data available, using the first of the following methods which, when considered in the following order, is feasible:

(i) recordings by any other measuring equipment acceptable to Epic Energy and the Shipper; or

(ii) trend data recorded by Epic Energy or the Shipper, where this data can be proven to represent a reasonable estimate of the actual measurement; or

(iii) by making the appropriate correction if the deviation from the accurate reading is ascertainable by calibration test or mathematical calculation; or

(iv) by estimation acceptable to Epic Energy and the Shipper based upon receipts or deliveries of gas under similar conditions during a period when the Metering Equipment was registering accurately.

12.7 Metering records

(a) Any record produced by Metering Equipment (including check metering equipment) in paper form is to be retained for 2 years, and in electronic form is to be retained for 5 years, after the date of production, by and at the expense of the party owning the equipment which produces the record.

(b) Each Party shall, within 10 working days after receipt of a request from the other Party, submit to the other Party its records and other information produced by, and any calculations and other information derived from, its Metering Equipment (including check metering equipment), for inspection and verification by that other Party, and the other Party may make and retain any copies of those records, calculations and other information and shall return the originals within 10 working days of receipt.

13. LIABILITY

13.1 Liability Limited to Direct Damage

Except as specifically provided elsewhere in these Access Contract Terms and Conditions neither Party is liable to the other Party under any circumstances for Indirect Damage howsoever caused.

13.2 Liability for Fraud

A Party who is fraudulent or who shows wilful disregard in respect of its obligations to the other Party under the Access Contract is to be liable to the other Party for, and is to indemnify the other Party against all loss or damage (including Indirect Damage) caused by, consequential upon or arising out of the fraud or wilful disregard.

13.3 No liability arising out of any approval by Epic Energy

Subject to Clause 13.2, Epic Energy is not in any circumstances to be liable to the Shipper for any loss, injury, or damage, arising out of any approval by Epic Energy 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 DBNGP.

13.4 Shipper Responsible for its and its Contractors' Personnel and Property

- (a) Except to the extent caused by the negligence of Epic Energy, the Shipper is liable for any loss or damage which occurs during the duration of the Access Contract, in or about, or incidental to activities in or about, any Receipt Point, any Delivery Point, the DBNGP, or any other premises, facilities or places used for the storage, transportation or delivery of gas received from or delivered to the Shipper.
- (b) The Shipper indemnifies Epic Energy and any person (except the Shipper) contracting with Epic Energy, 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 13.4(a).

14. CURTAILMENT AND INTERRUPTION

14.1 Permissible Interruption

Epic Energy may curtail or interrupt the Shipper without liability to the Shipper:

- (a) in such circumstances as Epic Energy considers necessary as a reasonable and prudent pipeline operator, including for Planned Maintenance, provided that the interruption or curtailment is within the Permissible Limit;
- (b) for Force Majeure; or
- (c) in the circumstances described in Clause 3.3(d).

14.2 Epic Energy must provide the Shipper with not less than 30 days prior notice of all Planned Maintenance that may reasonably be considered likely to interrupt normal gas transmission.

14.3 Non Permissible Interruption

Epic Energy may curtail or interrupt the Shipper in circumstances which are not a Permissible Interruption PROVIDED THAT in that case, Epic Energy shall:

- (a) compensate the Shipper for any Direct Loss suffered by the Shipper; and
- (b) credit the Shipper in the next invoice issued by Epic Energy to the Shipper, with the Capacity Charge applicable to that capacity so interrupted or curtailed.

15. FORCE MAJEURE

- (a) A Party is excused from performance of, and is not liable for any failure in carrying out any of its obligations under this contract if it is prevented from doing so by Force Majeure.
- (b) If a Party claims the benefit of Force Majeure, it shall —
 - (i) promptly give notice to the other Party of the occurrence and circumstances in which the claim arises;
 - (ii) use its best endeavours to remedy the consequences without delay; and
 - (iii) resume full performance of its obligations under the Access Contract as soon as reasonably practicable.
- (c) Without limiting the generality of Clause 15(a), a refusal by Epic Energy due to Force Majeure to accept gas from or deliver gas to the Shipper is not a curtailment or interruption of the Shipper's capacity.
- (d) The Shipper is relieved of its obligation to pay the Capacity Charges where an event of Force Majeure is claimed by Epic Energy in respect of an interruption or curtailment of the Service to that Shipper.

16. CHARGES

16.1 Obligation to Pay

The Shipper shall pay the Charges, in the manner and at the times set out in the Access Contract, that relate to the Service in accordance with the Access Contract.

16.2 CPI Adjustment

On each 1 January (commencing in 2001) all of the Charges will be adjusted by 67% of the variation (expressed as a percentage) in the CPI for the 12 month period ending on the previous 30 September.

17. DEFAULT AND TERMINATION

17.1 Default by Shipper

An Event of Default by the Shipper occurs when the Shipper:

- (a) suffers an Insolvency Event;
- (b) defaults in performance of a material obligation and, where the default is capable of being remedied, does not remedy the default within a period of 21 Days from the date of a notice from Epic Energy requiring the Default to be remedied; or
- (c) fails to pay any amount due to Epic Energy and that amount, plus any Interest, is still outstanding 7 Days after the date of posting of a notice of demand from Epic Energy.

17.2 Rights of Service Provider

If an Event of Default by the Shipper occurs, Epic Energy may, at its discretion, take any one or more of the following actions:

- (a) suspend the Service to the Shipper (including any rights of the Shipper to trade capacity on the Secondary Market) whilst the Event of Default continues and, if Epic Energy wishes to do so, provide access to a third party to that amount of the Capacity in the DBNGP contracted to the Shipper under the Access Contract, until (as the case may be):
 - (i) the Insolvency Event has been removed or rectified;
 - (ii) the default has been remedied; and/or
- (b) terminate the Access Contract.

17.3 Continuation of Payment Obligations

If Epic Energy elects to suspend the Service under Clause 17.2(a), the Shipper will not be relieved of any of its obligations to make payments under the Access Contract.

17.4 Default by Epic Energy

- (a) The Shipper may terminate the Access Contract if Epic Energy:
 - (i) defaults in providing the Service to the Shipper for 21 consecutive Days and does not remedy that default within 48 hours of receipt of a notice from the Shipper requiring that default to be remedied;
 - (ii) otherwise defaults in the performance of a material obligation and does not remedy that default within a period of 21 Days from the date of a notice from the Shipper requiring the default to be remedied or if the default is not capable of being remedied, adequate compensation paid.
- (b) A Permissible Interruption by Epic Energy is not an Event of Default, nor a default for the purpose of Clause 17.4(a).

17.5 Other Rights and Remedies

The rights and remedies described in Clauses 17.2 and 17.4 are in addition to any other rights and remedies available to the Parties whether in law, in equity or otherwise.

17.6 Prior Rights

Termination of the Access Contract will not prejudice the rights of either Party that have accrued prior to the date of termination.

18. DISPUTE RESOLUTION AND INDEPENDENT EXPERTS

18.1 Dispute Resolution

- (a) If any Dispute arises between the Parties, either party may give the other written notice of a Dispute and each Party will appoint a senior manager or executive to meet in an attempt to resolve the Dispute.
- (b) The senior managers or executives will use their best endeavours to resolve the Dispute within a period of 20 Business Days from receipt of the notice referred to in Clause 18.1(a).
- (c) If the Parties believe that it would be beneficial, and they agree, they may retain the non-binding mediation services of an agreed mediator.
- (d) If the Dispute remains unresolved at the end of the period referred to in Clause 18.1(b), and the Dispute is a Technical Matter or a Financial Matter, then either Party may require that the Dispute be determined by an independent expert under Clause 18.2.

18.2 Resolution of Technical and Financial Matter

(a) Appointment of Independent Expert

The Party wishing to have the Dispute determined by an Independent Expert will give written notice to that effect to the other Party specifying the nature of the Dispute. The Parties will meet and use all reasonable endeavours to agree upon the identity of the Independent Expert, but if they are unable to agree within 20 Business Days of the notice, then either Party may refer the matter:

- (i) if it is a Technical Matter, to the president for the time being of the Institution of Engineers, Australia;
- (ii) if it is a Financial Matter, to the president for the time being of the Institute of Chartered Accountants in Australia; or
- (iii) in either case, if the relevant body referred to in Clause 18.2(a)(i) or Clause 18.2(a)(ii) no longer exists, then to the president for the time being of such successor body or association as is then performing the function formerly carried out by the relevant body,

who will nominate a suitably qualified person to act as the Independent Expert to determine the Dispute.

(b) Expert not an Arbitrator

Unless the parties agree otherwise, the Independent Expert appointed under Clause 18.2(a) will:

- (i) act as an expert and not as an arbitrator;
- (ii) will have no interest or duty which conflicts, or which may conflict, with his or her function as the Independent Expert;
- (iii) will not be a former or current employee or representative of the Shipper or Epic Energy or of a Related Body Corporate of either of them; and
- (iv) shall disclose fully to the Parties, before being appointed as the Independent Expert, any interest or duty which may conflict with his or her position.

(d) Representation and Evidence

Each Party:

- (i) may be legally represented at any hearing before the Independent Expert;

- (ii) will be entitled to produce to the Independent Expert any materials or evidence which that Party believes is relevant to the Dispute; and
 - (iii) will make available to the Independent Expert all materials requested by him or her and all other materials which are relevant to his or her determination.
- (e) **Rules of Evidence**

The Independent Expert will not be bound by the rules of evidence.
- (f) **Confidentiality**

Subject to any privileges under law, unless otherwise agreed by the Parties, all material and evidence made available for the purposes of the determination will be kept confidential.
- (g) **Powers**

The Independent Expert will have the power to inform himself or herself independently as to the facts to which the Dispute relates and to take such measures as he or she thinks fit to expedite the determination of the Dispute.
- (h) **Determination**

The Independent Expert will make a determination on the Dispute and will determine what, if any, adjustments may be necessary between the Parties. The determination of the Independent Expert will be final and binding upon the Parties.
- (i) **Costs**

The costs in relation to a determination by the Independent Expert will be dealt with as follows:

 - (i) the remuneration of the Independent Expert will, unless the Parties otherwise agree before the reference of the Dispute to the Independent Expert, or if there is a disagreement over the amount of that remuneration, be finally determined by the President for the time being of the appropriate body referred to in Clause 18.2(a);
 - (ii) unless the Parties otherwise agree, the Independent Expert will determine which Party will bear the costs of the determination and in what proportion, having regard to the degree to which he or she considers that Party was at fault or unreasonable in failing to agree to the matter under reference, and that Party will bear those costs accordingly; and

Epic Energy and the Shipper will bear their own costs incurred in the preparation and presentation of any submissions or evidence to the Independent Expert.

19. ASSIGNMENT

19.1 Assignment by Epic Energy

Epic Energy may assign its right and interest under the Access Contract without obtaining the consent of the Shipper where that assignment is to:

- (a) a Related Body Corporate; or
- (b) a person holding an interest in the DBNGP;

but otherwise with the consent of the Shipper, which consent shall not be unreasonably withheld.

19.2 Assignment by Shipper

- (a) The Shipper may undertake a Bare Transfer for any period without Epic Energy's consent. The Shipper is not required to supply Epic Energy with any information in relation to a Bare Transfer.
- (b) Subject to the Shipper's rights to trade capacity in the Secondary Market, the Shipper shall not otherwise assign or encumber its right and interest under the Access Contract without obtaining the prior written consent of Epic Energy, which consent shall not be unreasonably withheld.

20. CONFIDENTIALITY

20.1 Confidential Information

Subject to Clause 20.2 and 20.3, each Party shall keep the terms and conditions of the Access Contract, and all information provided pursuant to or in accordance with the Access Contract, confidential (“Confidential Information”).

20.2 Exceptions to Confidentiality

Either Party may disclose Confidential Information which:

- (a) at the time when it is disclosed or communicated to or created, ascertained, discovered or derived by the Party, is publicly known;
- (b) at the time when it is disclosed, is already known to the Party through some independent means not involving breach of any confidentiality undertaking owed pursuant to Clause 20.1;
- (c) after the time when it is disclosed or communicated to or created, ascertained, discovered or derived by the Party, comes into the public domain otherwise, than as a result of any breach of the confidentiality undertaking owed pursuant to Clause 20.1; or
- (d) that party is required by court order, law or the Regulator to disclose and in that case, the disclosing party shall promptly notify the other party of that requirement.

20.3 Permitted Disclosure

Either Party may disclose Confidential Information to:

- (a) its employees; and
- (b) consultants, lawyers, bankers and financial advisers;

to the extent those persons have a need to know the Confidential Information PROVIDED THAT the disclosing Party is responsible for ensuring those persons keep the Confidential Information confidential.

21. REPRESENTATIONS AND WARRANTIES

21.1 Epic Energy's Representations and Warranties

Epic Energy represents and warrants to the Shipper that —

- (a) it has duly complied, and will up to the termination of the Access Contract continuously comply, with all environmental and safety laws with respect to any of its obligations connected with, arising out of or in relation to the Access Contract;
- (b) its obligations under the Access Contract are valid and binding and are enforceable against it in accordance with their terms;
- (c) Epic Energy 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);
- (d) it controls the DBNGP; and
- (e) the Access Contract does not contravene Epic Energy'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.

The representations and warranties in this Clause 21.1 are made on and from the Commencement Date, and are to be taken to be made anew on each Day thereafter for the duration of the Access Contract.

21.2 Shipper's Representations and Warranties

- (a) The Shipper, by making an Access Request and by entering into the Access Contract, represents and warrants to Epic Energy that —
 - (i) it has duly complied, and will up to the termination of the Access Contract continuously comply, with all environmental and safety laws with respect to any of its obligations connected with the Access Contract;
 - (ii) it has in full force and effect all necessary leases, licences or easements to construct, operate and maintain all facilities for which it is responsible under the Access Contract;
 - (iii) it has in full force and effect all necessary approvals, licences and authorities required to use the gas delivered by Epic Energy under the Access Contract in any facilities which use gas, and will throughout the term of the Access Contract comply with all legal requirements pertaining to those facilities;
 - (iv) its obligations under the Access Contract are valid and binding and are enforceable against it in accordance with their terms;
 - (v) the Access 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;
 - (vi) its obligations to make payments under the Access Contract rank at least equally with all unsecured and unsubordinated indebtedness of the Shipper except debts mandatorily preferred by law;
 - (vii) 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;
 - (viii) 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, referee, governmental agency, commission, arbitrator or other tribunal which

will, or might reasonably be expected to, materially affect its ability to perform its obligations under the Access Contract;

- (ix) 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
 - (x) the Shipper is not an agent or trustee (except if and to the extent that it is disclosed as such in its Access Request) in relation to the Access Contract or the gas to be received or delivered under the Access Contract.
- (b) The representations and warranties in Clause 21.2(a) are made on and from the Commencement Date, and are by force of this Clause to be taken to be made anew on each Day thereafter for the duration of the Access Contract.

21.3 Creditworthiness of Shipper

Epic Energy may from time to time seek confirmation from the Shipper (including but not limited to provision of the most recent audited financial accounts of the Shipper) that the Shipper is in a position to meet its obligations under an Access Contract.

21.4 Failure to Satisfy Epic Energy of Creditworthiness

If Epic Energy is not satisfied that the Shipper is in a position to meet or continue to meet its obligations under an Access Contract, Epic Energy may require, and the Shipper shall provide, security for those obligations to Epic Energy's reasonable satisfaction.

22. RECORDS AND INFORMATION

Except where otherwise provided in the Access Contract, both Epic Energy and the Shipper shall prepare and maintain proper books, accounts, records and inventories of all matters connected with or relating to the Access Contract, and shall retain those books, accounts, records and inventories for at least 5 years.

23. INSURANCES

- (a) Subject to Clause 23(d), the Shipper shall procure and maintain at its own expense throughout the duration of the Access Contract the following insurances with insurers having a reputation satisfactory to a reasonable and prudent person —
 - (i) worker's compensation insurance in accordance with the Workers' Compensation and Rehabilitation Act 1981, 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 at the Receipt Point or Delivery Point; and
 - (iii) liability insurance for such amount as Epic Energy may reasonably require (not exceeding \$100 million indexed for CPI) against risk of loss, damage, death or injury to property or personnel (however caused) of Epic Energy, the Shipper or the public in connection with, related to or arising out of the Access Contract.
- (b) the Shipper shall arrange for Epic Energy's interest to be noted on those policies to the satisfaction of Epic Energy so that Epic Energy is covered under those policies and for the insurers to waive rights of subrogation against Epic Energy.
- (c) the Shipper shall, prior to the commencement of the Access Contract and prior to the commencement of each Year thereafter, provide Epic Energy with certificates of currency of the insurances and endorsements required by this Clause.
- (d) Epic Energy may waive compliance —
 - (i) by the Shipper; or
 - (ii) if the Shipper is a joint venture, by a joint venture participant,
with any or all of the requirements of Clauses 23(a), 23(b) and 23(c) if Epic Energy —
 - (iii) is satisfied that the Shipper or the joint venture participant, as the case may be, has adequate alternative arrangements;
 - (iv) accepts the Shipper or the joint venture participant, as the case may be, as a self-insurer; or
 - (v) determines that there is other sufficient reason to do so.

24. NO WAIVER

No failure or delay by a Party in exercising any of its rights under the Access 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 the Access Contract.

25. ENTIRE AGREEMENT

The Access Contract constitutes the entire agreement between the parties on the subject matter of the Access Contract and supersedes all prior negotiations, representations and agreements between the parties.

26. SEVERABILITY

If any Clause or provision of the Access Contract is held illegal or unenforceable by any judgment of a referee, court, arbitrator or tribunal having competent jurisdiction, the judgment does not affect the remaining provisions of the Access 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 the Access Contract.

27. ENTRY AND INSPECTION

- (a) Each Party shall grant to, or use its 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 Epic Energy, the DBNGP);
 - (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 Epic Energy, the DBNGP); andfor any other purpose connected with or arising out of the Access Contract.
- (b) Any entry under Clause 27(a) is made in all respects at the expense and risk of the entering Party, who shall make good any damage occasioned by or resulting from the entry.
- (c) Except in the case of emergency, a Party shall —
 - (i) when it seeks to exercise a right of entry under this Clause 27, 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 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 shall use their reasonable endeavours to secure for either or both of the Parties a right of entry to that third person's premises.

28. OWNERSHIP, CONTROL, MAINTENANCE AND RISK

- (a) In the absence of any agreement between the parties to the contrary, the Receipt Point and the Delivery Point 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, the Shipper is to be presumed to own any relevant thing upstream of the Receipt Point and downstream of a Delivery Point, and Epic Energy is to be presumed to own any relevant thing between the Receipt Point and the Delivery 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.

29. REBATES

29.1 Rebate Sharing Contract

- (a) The Access Contract is a Rebate Sharing Contract;
- (b) Clause 29.1(a) does not apply to and is not a term of a contract for Secondary Market Service or Seasonal Service;

29.2 Rebate of Charge Revenues

- (a) The Shipper is a Charge Revenue Rebate Shipper as defined in sub-clause 9.5 of the Access Arrangement and is entitled to Charge Revenue Rebates in accordance with the provisions of this sub-clause.

30. NO COMMON CARRIAGE

Neither Epic Energy nor the Shipper is a common carrier of gas transported through the DBNGP.

31. EPIC ENERGY NOT A SUPPLIER OF GAS

Nothing in the Access Contract requires Epic Energy to supply gas to the Shipper.

32. STAMP DUTY

The Shipper shall pay all stamp duty which may be payable in respect of the Access Contract.

33. NO THIRD PARTY BENEFIT

No person other than Epic Energy or the Shipper is to obtain any 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.

SCHEDULE 1

RATES AND CHARGES

Unavailability Charge	\$15/GJ
Nominations Surcharge	350% of the relevant 100% load factor Reference Tariff
Excess Imbalance Charge	350% of the relevant 100% load factor Reference Tariff
Out of Specification Gas Charge	350% of the relevant 100% load factor Reference Tariff
Peaking Surcharge	350% of the relevant 100% load factor Reference Tariff

SCHEDULE 2

GAS QUALITY, PRESSURE AND TEMPERATURE

1. Gas Quality

Component	Category A Gas	Category B Gas
Maximum carbon dioxide (mol %)	3.6	4.0
Maximum inert gases (mol %)	5.5	6.0
Minimum higher heating value (MJ/m ³)	37.3	37.3
Maximum higher heating value (MJ/m ³)	42.3	42.3
Minimum Wobbe Index	47.3	47.3
Maximum Wobbe Index	51.0	51.0
Maximum total sulphur (mg/m ³)	Unodorised gas	10
	Odorised gas	20
Maximum Hydrogen Sulphide (mg/m ³)	2	2
Maximum Oxygen (mol %)	0.2	0.2
Maximum Water (mg/m ³)	48	48
Hydrocarbon dewpoint over the pressure range 2.5 to 8.72 MPa absolute	Below 0 °C	Below 0 °C
Maximum radioactive components (Bq/m ³)	600	600
Minimum extractable LPGs (t/TJ)	1.45	n/a

2. Gas Temperature and Pressure

Receipt Point or Delivery Point	Pressure		Temperature	
	Min (kPag)	Max (kPag)	Min (°C)	Max (°C)
Receipt Point	Line pressure	MAOP permitted by the Pipeline Licence	0	50
Delivery Point	Line pressure	MAOP permitted by the Pipeline Licence	0	50

SCHEDULE 3

METERING REQUIREMENTS

1. Design, Adjustment and Operation
 - (a) Metering Equipment shall be designed, adjusted and operated so as to achieve —
 - (i) subject to clauses 1(a)(ii) and (iii) and clause 1(b) below, the best accuracy of measurement which is technically and economically feasible consistent with standard gas industry practices;
 - (ii) measurement to within a maximum uncertainty of —
 - (A) subject to clause 1(b) below, plus or minus 1% of Actual Mass Flow Rate at a minimum of the 95% confidence level for metering equipment with a design maximum flow rate of 5 TJ/d or greater; and
 - (B) plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level for metering equipment with a design maximum flow rate of less than 5 TJ/d; and
 - (iii) measurement to within a maximum uncertainty of plus or minus one quarter of one percent of higher heating value at a minimum of the 95% confidence level.
 - (b) Alternative Metering Equipment referred to in clause 2(b)(i) below need not comply with clause 1(a)(ii)(A) above if —
 - (i) it is designed, adjusted and operated so as to achieve measurement to within a maximum uncertainty of plus or minus 2% of Actual Mass Flow Rate at a minimum of the 95% confidence level; and
 - (ii) it is not used for more than 72 hours in any gas year.
 - (c) Each component of Metering Equipment may be designed, adjusted and operated within limits of uncertainty agreed between the parties.

In this clause, “95% confidence level” has the meaning given to that expression by ISO 5168 as amended varied or replaced.

2. Metering Requirements
 - (a) Metering Equipment shall —
 - (i) continuously compute and record —
 - (A) (in the case of Receipt Point Metering Equipment) the quantity and quality of gas delivered by the Shipper to Epic Energy under the Access Contract; and
 - (B) (in the case of Delivery Point Metering Equipment) the quantity of gas delivered by Epic Energy to the Shipper under the Access Contract;
 - (ii) be of a standard of manufacture acceptable to Epic Energy in its discretion as a reasonable and prudent pipeline operator;
 - (iii) comply with AS 2885 and any Australian or international standards required from time to time by Epic Energy;
 - (iv) subject to clauses 2(a)(ii) and 2(a)(iii) above, encompass newest proven technology;
 - (v) be able in all streams to withstand gas flows of up to 120% of the design flow;

- (vi) provide data signals in the form of galvanically isolated 4-20 milliamp current loops or potential free contacts, as appropriate, or in such other form as the parties as reasonable and prudent persons may agree; and
 - (vii) include facilities to enable electronic data collection by Epic Energy's electronic data collection system.
- (b) Metering Equipment with a design maximum flow rate of 5 TJ/d or more shall include —
- (i) alternative Metering Equipment capable of measuring gas quantity and (for Receipt Point Metering Equipment) gas quality;
 - (ii) a means for detecting a fault in duty equipment which is likely to materially affect the accuracy of any measurements produced by the duty equipment, and a means in the event of such a fault for automatically switching metering from the faulty duty equipment to the alternative Metering Equipment referred to in sub-clause (i); and
 - (iii) a means for manually switching metering from duty equipment to the alternative Metering Equipment referred to in clause 2(b)(i) above.
- (c) Metering Equipment at a Receipt Point shall provide digital signals associated with valve or other equipment status, and shall include components for signalling the following primary measurements and derived variables associated with gas quality and quantity —
- (i) delivery temperature;
 - (ii) delivery pressure;
 - (iii) instantaneous energy flow rate in terajoules per day; instantaneous energy flow rate in terajoules per day; instantaneous energy flow rate in terajoules per day; instantaneous energy flow rate in terajoules per day;
 - (iv) totalised energy flow in gigajoules;
 - (v) relative density;
 - (vi) higher heating value in megajoules per kilogram;
 - (vii) nitrogen content in mole percent;
 - (viii) carbon dioxide content in mole percent;
 - (ix) LPG content in tonnes per terajoule of gas;
 - (x) moisture level in milligrams per cubic metre;
 - (xi) instantaneous hydrocarbon dew point in degrees Celsius; and
 - (xii) all primary measurements and derived variables used in any computation required by sub-clauses (i) to (xi).
- (d) Unless Epic Energy and the Shipper as reasonable and prudent persons agree to the contrary, Delivery Point Metering Equipment may utilise gas quality data (the "remote data") from equipment which is not located at the Delivery Point station in question, in which case —
- (i) Epic Energy may as a reasonable and prudent person adopt procedures relating to that utilisation, including without limitation relating to the use of preset gas quality values when the remote data is unavailable for any reason; and
 - (ii) clauses 4 and 7 below apply, with appropriate modifications, to any procedures adopted under clause 2(d)(i) above.
- (e) Delivery Point Metering Equipment shall provide digital signals associated with valve or other equipment status, and shall include components for signalling the following primary measurements and derived variables associated with gas quantity —

- (i) delivery temperature;
 - (ii) delivery pressure;
 - (iii) instantaneous energy flow rate in terajoules per day;
 - (iv) totalised energy flow in gigajoules; and
 - (v) all primary measures and derived variables used in any computation required by clauses 2(e) (i) to (iv) above.
- (f) The Receipt Point Metering Equipment, and any building erected for such equipment, is the property of the Shipper, and the Delivery Point Metering Equipment, and any building erected for such equipment, is the property of Epic Energy.
3. Changes to Requirements for Metering Equipment
- Epic Energy may modify, or may by notice in writing require the Shipper to modify, existing Metering Equipment to comply with requirements or standards specified by Epic Energy after that equipment was installed, and if the modification is necessary to comply with safety laws of general application, or to comply with an amendment to the Access Arrangement implementing such laws, the modification is to be made at the Shipper's expense, and otherwise the modification is to be made at Epic Energy's expense.
4. Preservation of Accuracy
- (a) All Metering Equipment is to be installed in a manner which permits an accurate measurement of the quantity, and (for Receipt Point Metering Equipment) the quality, of gas delivered, and a ready Verification of the accuracy of measurement.
 - (b) Each Party shall, in the installation, maintenance and operation of any Metering Equipment, exercise the care of a reasonable and prudent person to prevent any inaccuracy in the measurement of the quantity of gas delivered under the Access Contract.
5. Presumptions of accuracy
- (a) Subject to Clause 11.5, a measurement of the quantity or quality of gas from any Metering Equipment is to be presumed to be correct.
 - (b) If any 2 consecutive Verifications show any Metering Equipment to be operating within the prescribed limits of uncertainty, the Metering Equipment is to be presumed to have been operating within the prescribed limits of uncertainty throughout the intervening period.
 - (c) The presumptions in clauses 5(a) and 5(b) are to apply until the contrary is shown.
 - (d) If either or both of the presumptions in clauses 5(a) and 5(b) above is, or are, shown to be incorrect in respect of any period or periods, Clause 11.5 and Clause 11.6 apply, with appropriate modifications, to measurements taken by the Metering Equipment during the period or periods.
6. Verification of metering equipment
- (a) Epic Energy —
 - (i) shall, subject to clause 6(b), at least once each month during the duration of the Access Contract; and
 - (ii) may at such greater frequency or on any occasion that either Party may request, verify the accuracy of any Metering Equipment in accordance with a procedure described in clause 6(c).
 - (b) Either Party may from time to time, by at least 3 months' advance notice in writing to the other Party, vary the interval between verifications under clause 6(a)(i) of any Metering Equipment, provided that the established performance of the Metering Equipment is such that a reasonable and prudent person would be satisfied that the interval can be so varied

without materially detrimentally affecting the accuracy of measurements provided by the Metering Equipment and without materially increasing the risk of the Metering Equipment operating outside the prescribed limits of uncertainty.

- (c) The Verification procedure is to consist of —
 - (i) a comparison between simultaneous independent measurements of gas flows;
 - (ii) the physical substitution of the Metering Equipment to be verified with similar metering equipment having a demonstrated accuracy within the prescribed limits of uncertainty; or
 - (iii) any Metering Equipment testing procedure complying with applicable Australian or International standards that the parties agree in writing to use.
- (d) Each Party may have representatives present at the time of any Verification of the accuracy of any Metering Equipment (unless the number of persons present shall be restricted for safety or logistical reasons, in which case the parties are to agree on which representatives are to be present), and Epic Energy shall give the Shipper sufficient notice of an intended Verification to enable the Shipper's representative to be present.
- (e) The results of any Verification are binding on both parties unless within 7 working days after a Verification either Party gives notice to the other Party that it disputes the conduct of the Verification, in which case —
 - (i) the dispute resolution provisions of Clause 17; and
 - (ii) any reference to accuracy figures produced by a Verification means the accuracy figures finally determined for that verification under a dispute resolution process adopted in accordance Clause 17.
- (f) Subject to Clause 6(g) below, any Verification under clause 6(a) above is to be made at the Shipper's expense.
- (g) If a Verification requested by Epic Energy under Clause 6(a)(ii) above reveals that the accuracy of the Metering Equipment is within the prescribed limits of uncertainty, the Verification is to be at Epic Energy's expense and Epic Energy shall pay the Shipper's reasonable expenses of that Verification.

7. Adjustment or replacement of defective equipment

- (a) If any component of Metering Equipment is at any time found to be defective or otherwise out of service or operating outside the prescribed limits of uncertainty, Epic Energy shall at an Delivery Point station and the Shipper shall at an Receipt Point station (in either case at the Shipper's expense) forthwith either —
 - (i) adjust it to read accurately within the prescribed limits of uncertainty; or
 - (ii) if such adjustment is not possible, replace it with a serviceable component.
- (b) Without limiting the generality of Clause 7(a), if Metering Equipment with a design maximum flow rate of less than 5 TJ/d is at any time found to be for any reason operating outside the prescribed limits of uncertainty, Epic Energy shall at a Delivery Point and the Shipper shall at any Receipt Point (in either case at the Shipper's expense) within 48 hours cause the Metering Equipment to operate within the prescribed limits of uncertainty.