



**Access Arrangement  
for  
Natural Gas Distribution System  
(APPROVED BY SURUHANJAYA TENAGA ON 12 MARCH 2020)**

Gas Malaysia Distribution Sdn Bhd  
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## Section 1 - INTRODUCTION

### 1

#### 1.1 INTRODUCTION

##### 1.1.1 Code

- (a) The arrangements expressed in this document are approved by the Commission pursuant to the Code and contain the terms and conditions upon which the Distributor will provide the Services to the Shippers. This document is the "Access Arrangement for Natural Gas Distribution System" as defined in the Code and shall hereinafter be referred to as the AA.
- (b) The Distributor has been granted a distribution licence pursuant to Section 11B(1)(a) of the Act.
- (c) This AA has been designed to provide a clear third party access regime through wide, transparent and uniform principles to allow the Shippers to gain access to the Distribution Networks.
- (d) The objective of this AA is to establish a framework for third party access to the Distribution Networks by the Shippers, and wherever possible to:
  - (i) promote the development of a competitive gas market by establishing uniform principles for the Distributor and the Shippers in the Distribution Networks;
  - (ii) provide for the Distributor to make available the Services to the Shippers in Peninsular Malaysia; and
  - (iii) ensure transparency, fair and equitable practices by the Distributor in all transactions within the Distribution Networks.

##### 1.1.2 Description of Distribution Networks

- (a) General information, including a description, of the Distribution Networks is found on the Website.
- (b) If multiple City Gate Stations are connected to a single Distribution Network, such City Gate Stations shall, for the purposes of Reserved Capacity, Nominations, Confirmed Nominations, the Metered Entry Quantity and a Shipper Entry Quantity, be construed as a single Entry Point, as more particularly identified in the description of the Distribution Networks on the Website.



- (c) Those requiring latest information are requested to visit the said Website which will be updated from time to time.

#### 1.1.3 Description of Services provided by the Distributor

- (a) The Distributor shall provide the following services to the Shippers in accordance with this AA:
  - (i) the services identified in Section 1.1.4; and
  - (ii) such other services as may be agreed in writing between the Distributor and the Shippers in relation to the Distribution Networks in accordance with the Code and Applicable Laws,(the "Services").
- (b) For the avoidance of doubt, except otherwise stated, Services shall not include the sale of gas or the measurement of gas at those Entry Points where the Measuring Equipment is not owned by the Distributor.

#### 1.1.4 Services

- (a) The Distributor will make the following Services available in relation to the Distribution Networks:
  - (i) Firm Distribution Service; and
  - (ii) Interruptible Distribution Service.
- (b) The Firm Distribution Service comprises:
  - (i) receipt of gas at Entry Points;
  - (ii) distribution of gas from Entry Points to Exit Points; and
  - (iii) delivery of gas and measurement of Gas at Exit Points,on a Reserved Firm Capacity basis.
- (c) The Interruptible Distribution Service comprises:
  - (i) receipt of gas at Entry Points;
  - (ii) distribution of gas from Entry Points to Exit Points; and
  - (iii) delivery of gas and measurement of gas at Exit Points,



on a Reserved Interruptible Capacity basis.

#### 1.1.5 Legal Effect of AA

- (a) This AA shall come into legal effect on the Effective Date.
- (b) This AA is applicable to the following persons:
  - (i) the Distributor;
  - (ii) the Shippers; and
  - (iii) the Connected Parties.
- (c) This AA is applicable to the Distribution Networks.
- (d) Parties to a GDA or a GCM shall be subjected to all Applicable Laws in connection with the Distribution Networks, including this AA. Only upon the execution of a GDA by a Shipper and the Distributor and a GCM by a Connected Party and the Distributor will such Shipper be entitled to receive the Services from the Distributor to distribute gas to the relevant Exit Point.
- (e) The persons identified in paragraph (b) above shall maintain all necessary consents, approvals, permits, licenses, and authorisations of, and declarations, filings and registrations with any Government Body in order to comply with its obligations under a GDA and this AA.

#### 1.1.6 Supporting Instruments

There are a number of other legal instruments to which some or all of the persons identified in Section 1.1.5(b) are subject and which underpin and support a number of the provisions expressed in this AA, as follows:

- (a) the Metering Philosophy;
- (b) the OFO Handling Procedures; and
- (c) the Gas Connection Manuals.

As such, this AA should be read and construed together with the other legal instruments referred to in this Section 1.1.6.



## 1.2 DEFINITIONS

Capitalised terms used in this AA shall have the meanings set out below, {and non-capitalised terms used in this AA, shall, if defined in the Act, have the same meaning as given in the Act}:

**Access Application** has the meaning set out in Section 2.1

**Act** means the Gas Supply Act 1993, as amended, modified or supplemented from time to time

**Affected Party** has the meaning set out in Section 15.5.1(a)

**Affiliate** means a company or legal entity which:

- (a) Controls directly or indirectly a person; or
- (b) is Controlled, directly or indirectly, by a person; or
- (c) is directly or indirectly Controlled by a company or legal entity which directly or indirectly Controls a person

**Aggregate Capacity Turn-back Offer Quantity** has the meaning set out in Section 3.9.1(f)(ii)

**AIAC** has the meaning set out in Section 15.8.5(d)

**Applicable Law** means any applicable national or local constitution, charter, act, statute, law, ordinance, code, rule, regulation or order, or other applicable legislative or administrative action of a Government Body or a final decree, judgement, or order of court

**Assumed Rate** means the flow rate of gas in GJ/Day determined by the Distributor in its sole and absolute discretion for a Distribution Network as identified in the Capacity Map

**Augmentation Plan** has the meaning set out in Section 3.9.2

**Authorised Capacity Overrun** has the meaning set out in Section 3.11.1(a)

**Authorised Capacity Overrun Amount** has the meaning set out in Section 3.11.1(b)(iii)

**Authorised Capacity Overrun Charge** has the meaning set out in Section 3.11.2(a)

**Available Firm Capacity** means the Total Capacity within a Distribution Network reduced to the extent of the amount of Reserved Firm Capacity then in force within such Distribution Network, and as expressed in the latest Capacity Map

**Available Interruptible Capacity** means the amount of capacity within a Distribution Network which may be reserved as Reserved Interruptible Capacity as determined by the Distributor in its





sole and absolute discretion and as reduced to the extent of the amount of Reserved Interruptible Capacity then in force within such Distribution Network

**Average Distribution Gross Heating Value**, for a Distribution Network, is determined in accordance with Section 11.7(b)

**Bank Guarantee** has the meaning as set out in Section 15.1.1 and shall be in the form set out in Schedule 1

**Bar** means a unit of pressure, equivalent to one hundred (100) kPa

**Base Rate** means a base interest rate calculated by Malayan Banking Berhad according to a formula which takes into account that institution's cost of funds and other administrative costs

**British Thermal Unit (Btu)** means the amount of heat equal to one thousand and fifty-five decimal zero six (1,055.06) Joules of energy

**Business Day** means a day, other than a Saturday, Sunday or public holidays in Selangor, on which commercial banks in Malaysia are open for the normal transaction of banking business

**Capacity Shortfall** has the meaning set out in Section 3.9.1(g)

**Capacity Transfer Application** has the meaning set out in Section 3.7(c)

**Capacity Map** has the meaning set out in Section 3.1.4(c)

**Change in Law** means the occurrence of any of the following after the Effective Date:

- (a) the enactment of any new Legal Requirement not required at the Effective Date;
- (b) the modification, repeal or withdrawal of any Legal Requirement;
- (c) the commencement of any Legal Requirement which was not effective on the Effective Date; or
- (d) a change in the interpretation or application by any Government Body of any Legal Requirement

**City Gate Station** means a station owned and operated by the Transporter upstream of an Entry Point where gas will enter a Distribution Network from the PGU Gas Transportation System and will be measured and tested by the Transporter

**City Station** means a station owned and operated by the Distributor at an Entry Point where the gas entering a Distribution Network is odorised



**Code** means the Third Party Access Code for Malaysian Distribution Pipelines issued by the Commission pursuant to Section 37B of the Act, as may be amended, modified or supplemented from time to time

**Common Disputes** has the meaning set out in Section 15.8.12(i)(i)

**Common Tribunal** has the meaning set out in Section 15.8.12(i)(i)

**Commission** means Suruhanjaya Tenaga, being the Energy Commission of Malaysia

**Commissioning Gas** means gas required by the Distributor for the completion of Proposed New Capacity, a Minor Expansion, New Facilities or System Restoration

**Communication** means any communication to be given by the Distributor or a Shipper under this AA

**Confidential Information** means:

- (a) information that is by its nature confidential relating to each of the persons mentioned in Section 1.1.5(b) or its Affiliates including commercial, financial and/or technical information (the operations, plans, proposals, intentions, know-how, trade secrets, copyright and other intellectual property rights, software, technology or operational measures, market opportunities, strategies, a Shipper's Offtakers and potential Offtakers, Offtaker's data, brokers, suppliers, competitors and potential competitors, financing sources, bank and trust contracts, business and/or financial affairs of each of the persons mentioned in Section 1.1.5(b) or its Affiliates), whether written, oral or otherwise recorded received by such person from the Disclosing Party;
- (b) information that is known by the Disclosing Party to be confidential and includes:
  - (i) any information relating to the financial position of the persons mentioned in Section 1.1.5(b) and, in particular, includes information relating to the assets or liabilities of such persons and any other matter that affects or may affects the financial position or reputation of such persons;
  - (ii) information relating to the internal management and structure of a person mentioned in Section 1.1.5(b) or the personnel, policies and strategies of such person;
  - (iii) information of a person mentioned in Section 1.1.5(b) to which the Disclosing Party has access other than information referred to in paragraphs (i) and (ii) above, that has any actual or potential commercial value to such person or the person or corporation which supplied that information;



- (iv) any information in the Disclosing Party's possession relating to a Shipper's Offtaker or supplier or a Connected Party's customer or supplier and like information

**Confirmed Nomination** has the meaning set out in Section 4.4(a)

**Connected Facility** means any Downstream Connected Facility or Upstream Connected Facility

**Connected Party** means:

- (a) at a City Gate Station, the Transporter; or
- (b) downstream of an Exit Point, the Offtaker; or
- (c) upstream of an Entry Point (other than at a City Gate Station), a third party carrying out commercial activities

**Consolidation Order** has the meaning set out in Section 15.8.12(i)(ii)

**Control** means control of more than fifty percent (50%) of the voting rights in a company or other legal entity

**Conventional Notice** has the meaning set out in Section 15.7.1(b)

**Critical Offtaker** means any Offtaker as identified and determined by the Shipper from time to time where any interruption of the Service to such Offtaker could endanger and/or put lives at risks

**Cubic Meter (m<sup>3</sup>)** means, a unit of volume corresponding to a cube with the dimension of one (1) meter in height by one (1) meter in width and by one (1) meter in depth

**Curtailment** means an interruption, reduction or suspension (in whole or in part) in the provision of a Service in the manner expressed in Sections 4.3(c) or 4.6(a)

**Curtailment Allowance** means three hundred and sixty (360) hours in any year on the Distribution Network identified in the Capacity Map as the "Klang Valley Distribution Network" and one hundred and twenty (120) hours in any year on any other Distribution Network

**Daily Meter Reading** means a Meter Reading generated by the Measuring Equipment which shows the quantity of gas measured during a Day

**Daily Nomination** means a Nomination made in the manner expressed in the second row of the table at Section 4.3(a)

**Day** means a period of 24 consecutive hours beginning at 0600 hours Malaysian standard time



**Disclosing Party** means a Shipper, a Connected Party or the Distributor who discloses Confidential Information

**Dispute** has the meaning set out in Section 15.8.1(a)(i)

**Dispute Notice** has the meaning set out in Section 15.8.5(b)

**Distribution Charge** means the Firm Distribution Charge or the Interruptible Distribution Charge

**Distribution Charge Security Requirement**, for a Shipper, has the meaning set out in Section 15.1.2

**Distribution Invoice** has the meaning set out in Section 13.1.1

**Distribution Networks** means the natural gas distribution system owned, operated and maintained by the Distributor as set out in Section 1.1.2(a)

**Distribution Network Assessment** is described in Section 3.9.1

**Distribution Network Assessment Capacity Application** has the meaning set out in Section 3.9.1(c)

**Distribution Network Assessment Closing Date** has the meaning set out in Section 3.8(d)(ii)

**Distribution Network Assessment Notification** has the meaning set out in Section 3.8(c)(iii)

**Distribution Tariff** is as set out in the Website from time to time

**Distributor** means Gas Malaysia Distribution Sdn Bhd

**Dormant Reserved Firm Capacity** has the meaning set out in Section 3.6.2

**Downstream Connected Facilities** means the facilities of the Connected Party which is connected to a Distribution Network immediately downstream of an Exit Point

**Effective Date** means the date on which this AA is published by the Distributor on the Website, or a date to be notified by the Commission to the Distributor in writing, whichever earlier

**Emergency** means a situation where the Distributor determines that the safety of human lives and/or the operational integrity and/or destruction of a Distribution Network, a Connected Facility, private or public property is imminently threatened which shall include but not limited to any one (or a combination) of gas odors, gas outage, major gas escapes, fire, explosions, hazardous substances, spills, hissing sound, low pressure, asphyxiation, power outages, medical emergencies, bomb or terrorist threats



**Entry Point** means a point at which gas may be injected into a Distribution Network, being either:

- (a) the last flange of a City Gate Station;
- (b) a point at which gas may enter a Distribution Network otherwise than at a City Gate Station,

in each case as identified in the description of the Distribution Networks on the Website

**Exempted Person** means a person who is permitted by the Commission to retail gas to consumers notwithstanding that such person is not licensed under Section 11B(i)(c) of the Act

**Exit Point** means a point at which gas may be offtaken from a Distribution Network

**Expert Determination** has the meaning set out in Section 15.8.2

**Firm Distribution Charge** has the meaning set out in Section 3.10.2(c)

**Force Majeure** has the meaning set out in Section 15.5.1(a)

**Gas Connection Manual** or **GCM** means an agreement between the Distributor and the Connected Party as required in accordance with Section 8.1.2

**Gas Distribution Agreement** or **GDA** means an agreement executed by the Distributor and a Shipper in the manner described in this AA

**Gas Specification** has the meaning set out in Schedule 2

**GDA Reference Number** has the meaning set out in Section 3.1.3

**GJ** means 1,000,000,000 Joules

**GMS** has the meaning set out in Section 14.1(a)

**GMS Communications** is an electronic communication transmitted by the Distributor or by a Shipper and received by means of GMS

**GMS Contingency** is an event or circumstance specified in the GMS manual affecting the ability of the Distributor or the Shipper to give or receive GMS Communications as a result of failure of GMS

**GMS Contingency Procedures** means the procedures set out in the GMS manual for the Distributor and the Shipper to communicate with each other and to co-ordinate in the event of a GMS Contingency



**Government Body** means any Malaysian government, governmental or semi- governmental or judicial entity, any ministry, inspectorate, official, public or statutory person or other statutory, administrative, supervisory or regulatory entity, federal, state or local

**Government Directive** means any instruction or directive issued from time to time by a Government Body to the Distributor

**Gross Heating Value or GHV** means the number of Joules produced by the complete combustion at a constant absolute pressure of one hundred and one decimal three two five (101.325) kPa and under standard gravitational acceleration of nine decimal eight zero seven (9.807) meters per second of one (1) cubic meter of gas at a temperature of fifteen degrees Celsius (15°C) with excess air at the same temperature and pressure as the gas when the products of combustion are cooled to fifteen degrees Celsius (15°C) and when the water formed by combustion is condensed to the liquid state and the products of combustion contain the same total mass of water as the gas and air before combustion

**Gross Negligence or Wilful Misconduct** means any act or failure to act (whether sole, joint or concurrent) by any person or entity which was intended to cause, or that was in reckless disregard of or wanton indifference to, harmful consequences that the person or entity knew, or should have known, would have on the safety or property of another person or entity or otherwise resulted in non-compliance of a material term of this AA

**Hourly Meter Reading** means a Meter Reading obtained from the Measuring Equipment which shows the quantity of gas measured during an hour

**IGC Management Plan** has the meaning set out in Section 5.2.1(b)

**Infrastructure Development Agreement or IDA** has the meaning set out in Section 3.9.3(c)

**Internal Gas Consumption Gas or IGC Gas** means the quantity of gas used by the Distributor in connection with the operation of a Distribution Network. It also refers to the quantity of gas otherwise lost and unaccounted for in connection with the operation of a Distribution Network, but excludes Linepack

**Interruptible Factor** has the meaning as published in the Website

**Interruptible Distribution Charge** has the meaning set out in Section 3.10.3(c)

**Joule or J** means one Joule at 101.325 kPa (abs) and 15°C

**kPa** means a unit of pressure of 1,000 Pascals at absolute condition

**Legal Requirement** means any statute, regulation or licence issued by a Government Body or Government Directive



**Linepack** means the quantity of gas which is maintained within a Distribution Network in a steady state in a Day when gas is injected at Entry Points and offtaken at Exit Points during such Day

**Maintenance Day** means a Day on which Scheduled Maintenance or Unscheduled Maintenance is carried out by the Distributor

**Maximum Allowable Injection Pressure** means the maximum pressure for injection of gas into a Distribution Network at an Entry Point as expressed in the Capacity Map

**Maximum Allowable Offtake Pressure** means, in respect of an Exit Point, the pressure of gas expressed as such in GDA applicable to such Exit Point

**Maximum Hourly Quantity** or **MHQ** means the maximum hourly quantity of gas as being approved to offtake at an Exit Point as expressed in a GDA

**Measuring Equipment** means measuring equipment and other ancillary facilities supporting the measuring equipment installed, operated and maintained to measure the quantity and, at a City Gate Station, quality of gas

**Meter Owner** means:

- (a) at each City Gate Station, the Transporter;
- (b) at each Entry Point which is not connected to the PGU Gas Transportation System, the Distributor or the relevant Upstream Connected Party at such Entry Point, as determined in accordance with Section 11.2(a); and
- (c) at each Exit Point, the Distributor or the relevant Offtaker at such Exit Point, as determined in accordance with Section 11.2(a)

**Meter Reading** means the metered quantity of gas as registered by the Measuring Equipment

**Metered Entry Quantity** means the quantity of gas measured by the Measuring Equipment at an Entry Point

**Metered Exit Quantity** means the quantity of gas measured by the Measuring Equipment at an Exit Point

**Metering Philosophy** means the Guidelines to Setting up Custody Transfer Metering Station At Entry and Exit Point published by the Commission

**Minimum Required Injection Pressure** means the minimum pressure required for the injection of gas into a Distribution Network at each Entry Point as published in the Website





**Minimum Required Offtake Pressure** means, in respect of an Exit Point, the pressure expressed as such in a GDA applicable to such Exit Point

**Minor Expansion** has the meaning set out in Section 3.9.3(a)(i)

**Minor Expansion Application** has the meaning set out in Section 3.9.3(a)

**Minor Expansion Consents** has the meaning set out in Section 3.9.3(b)(iii)

**Minor Expansion Cost** has the meaning set out in Section 3.9.3(b)(iv)

**Minor Expansion Start Date** has the meaning set out in Section 3.9.3(b)(ii)

**MJ** means mega Joule

**mmBtu** means one million (1,000,000) Btu

**Month** means a period extending from the beginning of the first Day in a calendar month to the beginning of the first Day in the next calendar Month

**Monthly Nomination** means a Nomination made in the manner expressed in the first row of the table at Section 4.3(a)

**New Facilities** has the meaning set out in Section 3.9.4(a)(i)

**New Facilities Consent Application** has the meaning set out in Section 3.9.4(a)

**New Facilities Consents** has the meaning set out in Section 3.9.4(a)(iii)

**New Facilities Distributor Consents** has the meaning set out in Section 3.9.4(b)(v)

**New Facilities Transfer Date** has the meaning set out in Section 3.9.4(a)(ii)

**Nomination** has the meaning set out in Section 4.2(a)

**Non-Critical Offtaker** means any Offtaker which is not a Critical Offtaker

**Off-Specification Gas** has the meaning set out in Section 9.2.1(a)

**Off-Specification Gas Notice** has the meaning set out in Section 9.2.1(a)

**Offtakers** means Retail Licensees, Exempted Persons or Private Gas Licensees and **Offtaker** means any one of them

**OFO Handling Procedures** is described in Section 12.2





**OFO Notice** has the meaning set out in Section 12.1(c)

**Open Season** is described in Section 3.8

**Operational Flow Order or OFO** means an order issued by the Distributor to a Shipper to either:

- (a) alter the quantity of gas to be offtaken at an Exit Point notwithstanding a Confirmed Nomination; or
- (b) reduce the amount of gas which may be expressed in the Shipper's Daily Nomination at an Exit Point to below the Reserved Capacity expressed in such Shipper's GDA applicable at such Exit Point

**Operating Hours Duration** has the meaning, in respect of a Shipper at an Exit Point, expressed in a GDA

**Parties** means:

- (a) in respect of a GDA, the Distributor and the Shipper to such GDA; and
- (b) in respect of a GCM, the Distributor and the Connected Party to such GCM

**Pascal** means the international system or SI derived unit of pressure

**PGU Gas Transportation System** means the high pressure gas transmission pipeline network in Peninsular Malaysia

**Private Gas Licensees** means persons licensed under Section 11B(1)(c) of the Act who use gas through a piping system connected directly to a Distribution Network where such piping system is not owned by a Retail Licensee

**Proposed New Capacity** has the meaning set out in Section 3.9.2(a)(ii)

**Proposed New Capacity Start Date** has the meaning set out in Section 3.9.2(a)(iii)

**Reasonable and Prudent Operator** means a person acting in good faith with the intention of performing its obligations under all relevant contracts, the GDA and/or the GCM and who, in so doing and in the general conduct of its undertaking, exercises that degree of diligence, prudence and foresight which would reasonably and ordinarily be exercised by a skilled and experienced operator complying with Applicable Law and engaged in the same type of undertaking and under the same or similar circumstances and conditions

**Receiving Party** means a person identified under Section 1.1.5(b) who receives Confidential Information



**Reservation Period** has the meaning set out in Section 3.2.1(f)(vi) if relating to Reserved Firm Capacity, or Section 3.4.2(d)(vi) if relating to Reserved Interruptible Capacity, as applicable

**Reserved Capacity** means Reserved Firm Capacity or Reserved Interruptible Capacity

**Reserved Firm Capacity** means, in relation to a Shipper, its right in respect of a Day to:

- (a) submit a Nomination up to the fixed contracted capacity expressed in a GDA to which it is a party for offtake of gas at an Exit Point (as identified in such GDA) in accordance with this AA and which, subject to the terms of this AA, must be included within a Confirmed Nomination issued by the Distributor for that Day; and
- (b) offtake a quantity of gas at such Exit Point in an hour during such Day at a rate up to the MHQ specified in such GDA,

subject to the terms of this AA

**Reserved Firm Capacity Application** has the meaning set out in Section 3.2.1(a)

**Reserved Interruptible Capacity** means, in relation to a Shipper, its right in respect of a Day to:

- (a) submit a Daily Nomination up to the fixed contracted capacity expressed in a GDA to which it is a party for offtake of gas at an Exit Point (as identified in such GDA) in accordance with this AA and which may, in the sole and absolute discretion of the Distributor, be included within a Confirmed Nomination issued by the Distributor for the Day; and
- (b) if included within a Confirmed Nomination, offtake a quantity of gas at such Exit Point in an hour during such Day at a rate up to the MHQ specified in such GDA,

subject to the term of this AA

**Reserved Interruptible Capacity Application** has the meaning set out in Section 3.4.2(a)

**Retail Licensees** means persons licenced under Section 11B(1)(c) of the Act who retail gas to consumers through their own pipeline system and who receive gas into their pipeline system from a Distribution Network

**RM** means Ringgit Malaysia, the lawful currency of Malaysia

**Roll-Over Option** has the meaning set out in Section 3.3(a)

**Scheduled Maintenance** means maintenance undertaken by the Distributor on the Distribution Network in a Year in accordance with the Scheduled Maintenance Plan for such Year as may be modified in accordance with Section 10.1.3



**Scheduled Maintenance Plan** has the meaning set out in Section 10.1(b)

**Services** has the meaning set out in Section 1.1.3(a)

**Service Tax** has the meaning set out in Section 13.5(d)

**Settlement Fund** means a fund being established into which Unauthorised Capacity Overrun Charges received by the Distributor shall be placed. Any withdrawal from this fund must be approved or shall be as directed by the Commission.

**Shared Entry Point** means an Entry Point where there is more than one Shipper with a GDA

**Shared Exit Point** means an Exit Point where there is more than one Shipper with a GDA

**Shipper** means any person holding a shipping license issued under Section 11B(1)(c) of the Act for the shipping of gas

**Shipper Default** has the meaning set out in Section 15.2.2

**Shipper Entry Quantity** is described in Section 6.1

**Shipper Exit Quantity** is described in Section 6.2

**Standard cubic meter (Sm<sup>3</sup>)** means the quantity of gas contained in one (1) cubic meter of space at a temperature of fifteen degrees Celcius (15°C) and at an absolute pressure of one hundred and one decimal three two five (101.325) kPa

**System Restoration** means the restoration of a Distribution Network following the issuance of OFO

**System Restoration Costs** means costs of restoring a Distribution Network following the issuance of an OFO, including:

- (a) implementation costs of OFO processes;
- (b) replacement and repair costs of such Distribution Network;
- (c) Distribution Charges during the period affected by an OFO;
- (d) gas lost and commissioning gas;
- (e) investigation cost either internal investigation and/or expert appointment; and
- (f) other costs – this will include any other costs incurred by the Distributor to eliminate the conditions which gave rise to the issuance of the OFO, and to implement OFO processes



**Tax** means a tax, levy, duty, tariff or surcharge, however imposed and by whatever name called, but does not include tax payable on either Party's income

**Technical Capacity** means, in respect of a Distribution Network, the maximum quantity of gas in GJ/Day which, at the Assumed Rate, could be conveyed within such Distribution Network during a Day without jeopardizing the normal and safe operation of the Distribution Network as determined by the Distributor in its sole and absolute discretion

**Termination Sum** means a sum equal to the aggregate Firm Distribution Charge which would have become payable by a Shipper whose GDA(s) have been terminated by the Distributor in accordance with Section 15.2.2 from the date of termination until the end of the Reservation Period for such GDA(s)

**Total Capacity** means, in respect of a Distribution Network, the maximum quantity of gas in GJ/Day which, at the Assumed Rate, the Distributor determines may be reserved as Reserved Firm Capacity within such Distribution Network during each Day

**Transferee** has the meaning set out in Section 3.7(a)

**Transferor** has the meaning set out in Section 3.7(a)

**Transporter** means the owner and / or operator of the PGU Gas Transportation System

**Turn-back Offer** has the meaning set out in Section 3.9.1(d)

**Unauthorised Capacity Overrun Charge** has the meaning set out in Section 3.11.2(b)

**Unauthorised Capacity Overrun Amount** has the meaning set out in Section 3.11.2(b)

**Under-using Shipper** has the meaning set out in Section 3.6.2

**Unscheduled Maintenance** means maintenance undertaken by the Distributor on a Distribution Network in a Year in accordance with the Unscheduled Maintenance Plan for such Year

**Unscheduled Maintenance Plan** has the meaning set out in Section 10.1.4

**Upstream Connected Facilities** means facilities connected to a Distribution Network immediately upstream of an Entry Point including each City Gate Station

**Upstream Connected Party** means the owner of an Upstream Connected Facility

**Website** means the Distributor's website

**Year** means the period of time beginning at 0600 hours from 1 January in any calendar year to 0600 hours on 1 January in the following calendar year.



### 1.3 INTERPRETATION

Unless the context otherwise requires, any reference in this AA to:

- (a) a statute, by-law, regulation, delegated legislation or order is to the same as amended, modified or replaced from time to time and to any by-law, regulation, delegated legislation or order made thereunder;
- (b) any agreement or instrument is to the same as amended, novated, modified, supplemented or replaced from time to time;
- (c) "including" shall mean including but not limited to;
- (d) a person shall be construed as a reference to any person, firm, company, corporation, government or agency of a state or any association or partnership (whether or not having separate legal personality) or two or more of the foregoing;
- (e) time shall be construed by reference to whatever time may from time to time be in effect in Malaysia;
- (f) the singular shall include the plural and vice versa;
- (g) where a word or expression is defined in this AA, cognate words and expressions shall be construed accordingly;
- (h) headings in this AA are for ease of reference only and shall not affect its construction;
- (i) references to "this AA" shall mean the Sections and Schedules of this AA and shall be read as one document; and
- (j) references in this AA to paragraphs, Sections and Schedules are to paragraphs, Sections and Schedules of this AA.



## Section 2 - ACCESS TO SERVICES

### 2

#### 2.1 ACCESS TO SERVICES

- (a) This Section 2 sets out the process which must be followed by a Shipper who wishes to apply to obtain Services from the Distributor. Such Shipper must satisfy the following requirements before its application can be considered by the Distributor:
- (i) it must be the holder of a shipping licence issued in accordance with Section 11(B)(1)(c) of the Act;
  - (ii) it must identify its address, telephone, electronic mail address and facsimile number and the name and contact number of the person in charge for the purposes of Section 15.7; and
  - (iii) it must complete and submit to the Distributor an application:
    - A) in the form published on the Website; and
    - B) in accordance with any requirements as set out on the Website or this AA, including providing any necessary supporting documents with the application form,(the “Access Application”).
- (b) The Distributor is only required to consider an Access Application if it satisfies the requirements set out in paragraph (a) above and it is complete and accurate.
- (c) The Distributor will acknowledge receipt of an Access Application that complies with Section 2.1(b).

#### 2.2 DISTRIBUTOR ASSESSMENT

- (a) The Distributor will assess a Shipper's Access Application in accordance with the Act and this AA.
- (b) In the course of assessing an Access Application, the Distributor may request the relevant Shipper to respond to queries in connection with its Access Application. The relevant Shipper must promptly comply with any such request.



### 2.3 DISTRIBUTOR TO APPROVE OR REJECT

The Distributor must notify the Shipper whether its Access Application has been approved or rejected as soon as reasonably practicable and in any event not later than seven (7) Business Days after receipt of the Access Application that complies with Section 2.1(a).



## Section 3 - RESERVED CAPACITY

### 3

#### 3.1 INTRODUCTION

For the purpose of this Section 3, "**the Shipper**" means the Shipper whose Access Application has been confirmed by the Distributor in accordance with Section 2.2.

3.1.1 This Section 3 sets out the process and principles that the Distributor will apply in allocating the Total Capacity within a Distribution Network to Shippers.

#### 3.1.2 Reserved Firm Capacity and Reserved Interruptible Capacity

- (a) A Shipper may apply for Reserved Firm Capacity and/or Reserved Interruptible Capacity in any Distribution Network pursuant to the terms of this Section 3. A Shipper may conclude multiple GDAs with the Distributor.
- (b) Reserved Interruptible Capacity differs from Reserved Firm Capacity in two important ways:
  - (i) a Nomination based upon a Shipper's Reserved Interruptible Capacity may be rejected by the Distributor based on the condition as specified in Section 3.5(b); and
  - (ii) the Distribution Charges for Reserved Interruptible Capacity differ from the Distribution Charges for Reserved Firm Capacity, reflecting the fact that a Nomination based upon a Shipper's Reserved Interruptible Capacity may be rejected by the Distributor.
- (c) Where a Shipper's application under this Section 3 is successful, details of such Shipper's Reserved Capacity will be set out in a GDA.

#### 3.1.3 Gas Distribution Agreement (GDA)

The form of GDA shall be as published in the Website. The Distributor and the Shipper shall conclude the GDA within seven (7) Days from the date of approval of the Shipper's application for Reserved Capacity. Each GDA shall be concluded in accordance with this Section 3. Each GDA shall be assigned its own unique reference number (the "**GDA Reference Number**") by the Distributor.

#### 3.1.4 The Distributor to determine Available Firm Capacity

- (a) The Distributor shall calculate and determine the level of Total Capacity within each Distribution Network by taking account of the Technical Capacity within such Distribution





Network during a Day without jeopardizing the normal and safe operation of such Distribution Network.

- (b) In accordance with the standard of a Reasonable and Prudent Operator, the Distributor shall maximise the amount of Available Firm Capacity within each Distribution Network taking account of the Total Capacity within such Distribution Network and the Reserved Firm Capacity then applicable within such Distribution Network.
- (c) The Distributor shall publish on its Website, and keep updated from time to time, a description of each Distribution Network (the "Capacity Map") identifying each Distribution Network's Available Firm Capacity.

### 3.2 RESERVED FIRM CAPACITY APPLICATIONS

#### 3.2.1 Application for Reserved Firm Capacity

- (a) A Shipper may apply to the Distributor for Reserved Firm Capacity by completing and submitting an application in the form published on the Website ("**Reserved Firm Capacity Application**").
- (b) The Distributor is only required to process a Reserved Firm Capacity Application if it satisfies the requirements set out in paragraph (a) above and it is complete and accurate.
- (c) The Distributor will acknowledge receipt of a Reserved Firm Capacity Application that complies with paragraph (a) above.
- (d) A Shipper may apply to the Distributor for Reserved Firm Capacity within a Distribution Network specifying Exit Point(s) (or, where at the time of such application no Exit Point(s) exists, at the locations where such Shipper wishes to offtake gas within an existing or potential future Distribution Network).
- (e) A Shipper shall be entitled to submit a request in respect of any quantity of Reserved Firm Capacity.
- (f) A Reserved Firm Capacity Application shall specify:
  - (i) the relevant Distribution Network;
  - (ii) the Reserved Firm Capacity required for each Exit Point in the selected Distribution Network, if known;
  - (iii) the aggregate of Reserved Firm Capacity applied for, expressed in GJ/Day, if more than one (1) Exit Point required in the same Distribution Network;



- (iv) whether or not such Shipper will accept a reservation of Reserved Firm Capacity of less than it has applied for and, if so, what would be the minimum level of Reserved Firm Capacity acceptable to that Shipper;
- (v) the identity of the Offtaker(s) at each relevant Exit Point, the Maximum Hourly Quantity ("MHQ") at each relevant Exit Point and the Operating Hours Duration for such Offtaker(s);
- (vi) the reservation period applicable to such Reserved Firm Capacity, which must be at least twelve (12) months or any shorter period as may be agreed between the Distributor and such Shipper and approved by the Commission (the "**Reservation Period**"); and
- (vii) any other information that the Distributor may reasonably require from such Shipper.

### 3.2.2 Approval or rejection of a Reserved Firm Capacity Application

- (a) The Distributor shall process Reserved Firm Capacity Applications received from Shippers which are compliant with Section 3.2.1 on a first come, first serve basis. The Distributor shall determine which Shipper made their Reserved Firm Capacity Application first, by reference to the time stamp indicated on the electronic mail showing when the Reserved Firm Capacity Application was received.
- (b) The Distributor shall approve or reject a Reserved Firm Capacity Application as soon as reasonably practicable, and in any event not later than thirty (30) Days, after it was made.
- (c) The Distributor may only reject a Reserved Firm Capacity Application received from a Shipper under Section 3.2.1(a) if:
  - (i) such Reserved Firm Capacity Application does not comply with the requirements of Section 3.2.1(f); or
  - (ii) there is insufficient Available Firm Capacity within the relevant Distribution Network to meet the Reserved Firm Capacity Application.
- (d) If the Distributor approves a Reserved Firm Capacity Application (in whole or part), it shall identify to the relevant Shipper, at the time of such approval, the Distribution Charge Security Requirement applicable to that Shipper and shall, within seven (7) Days of such approval, enter into a GDA(s) with such Shipper. A separate GDA shall be concluded between the Distributor and such Shipper in respect of each Exit Point comprising its Reserved Firm Capacity.



### 3.3 RENEWING RESERVED FIRM CAPACITY

- (a) A Shipper may, at any time during the current Reservation Period as expressed in its GDA(s), but no later than the date which is ninety (90) days prior to the end of such current Reservation Period, request to be registered as holding all, or part of, the Reserved Firm Capacity for such further period after the end of such current Reservation Period (the “**Roll-Over Option**”) as such Shipper may specify in its request. For the avoidance of doubt, a Shipper’s Roll-Over Option shall cease on the date which is ninety (90) days prior to the end of the Reservation Period expressed in a GDA. In those circumstances, a Shipper seeking to retain its Reserved Firm Capacity after the end of the current Reservation Period would need to submit a Reserved Firm Capacity Application in the manner expressed in Section 3.2.1.
- (b) In the event a Shipper exercises its Roll-Over Option in respect of a Reserved Firm Capacity, the Distributor shall enter into a new GDA(s) with the Shipper in respect of such Reserved Firm Capacity for the new relevant Reservation Period.
- (c) In the event:
  - (i) a Shipper (for the purposes of this paragraph (c), the “**Existing Shipper**”) has not exercised its Roll-Over Option, but its Roll-Over Option remains valid;
  - (ii) the Distributor receives a Reserved Firm Capacity Application from a Shipper (for the purposes of this paragraph (c), the “**New Shipper**”) in a Distribution Network for a period after the end of the Reservation Period specified in a GDA of the Existing Shipper; and
  - (iii) the Distributor could only accept the Reservation Firm Capacity Application from the New Shipper on the basis that there would be sufficient Available Firm Capacity within such Distribution Network if the Existing Shipper did not exercise its Roll-over Option,

the Distributor shall notify the Existing Shipper of such Reserved Firm Capacity Application. Such Existing Shipper may, within the earlier of (i) thirty (30) Days from receipt of such notice and (ii) the date when its Roll-Over Option will cease, exercise its Roll-Over Option. If, under those circumstances, the Existing Shipper exercises its Roll-Over Option, the Distributor shall reject the Reserved Firm Capacity Application from the New Shipper in accordance with Section 3.2.2(c)(ii). If the Existing Shipper does not exercise its Roll-Over Option, the Distributor may accept the Reserved Firm Capacity Application made by the New Shipper in accordance with Section 3.2.2(d) and the Existing Shipper shall lose its Roll-Over Option.



### 3.4 RESERVED INTERRUPTIBLE CAPACITY APPLICATIONS

#### 3.4.1 Application for Reserved Interruptible Capacity

- (a) A Shipper may apply to the Distributor for Reserved Interruptible Capacity by completing and submitting an application in the form published on the Website ("**Reserved Interruptible Capacity Application**").
- (b) The Distributor is only required to consider a Reserved Interruptible Capacity Application if it satisfies the requirements set out in paragraph (a) above and it is complete and accurate.
- (c) The Distributor will acknowledge receipt of a Reserved Interruptible Capacity Application that complies with paragraph (a) above.
- (d) A Reserved Interruptible Capacity Application shall specify:
  - (i) the relevant Distribution Network;
  - (ii) the Reserved Interruptible Capacity required for each Exit Point in the selected Distribution Network;
  - (iii) the aggregate of Reserved Interruptible Capacity applied for, expressed in GJ/Day, if more than one (1) Exit Point required in the same Distribution Network, which must not be more than the Available Interruptible Capacity in such Distribution Network;
  - (iv) whether or not such Shipper will accept a reservation of Reserved Interruptible Capacity of less than it has applied for and, if so, what would be the minimum level of Reserved Interruptible Capacity acceptable to that Shipper;
  - (v) the identity of the Offtaker(s) at each relevant Exit Point, the Maximum Hourly Quantity ("**MHQ**") at each relevant Exit Point and the Operating Hours Duration for such Offtaker(s);
  - (vi) the reservation period applicable to such Reserved Interruptible Capacity, which may be any period as may be agreed between the Distributor and such Shipper (the "**Reservation Period**"); and
  - (vii) any other information that the Distributor may reasonably require from such Shipper.

#### 3.4.2 Approval or rejection of a Reserved Interruptible Capacity Application

- (a) The Distributor shall process Reserved Interruptible Capacity Applications received from Shippers which are compliant with Section 3.4.1 on a first come, first serve basis. The Distributor shall determine which Shipper made their Reserved Interruptible Capacity



Application first, by reference to the time stamp indicated on the electronic mail showing when the Reserved Interruptible Capacity Application was received.

- (b) The Distributor shall approve or reject a Reserved Interruptible Capacity Application as soon as reasonably practicable, and in any event not later than thirty (30) Days, after it was made.
- (c) The Distributor may only reject a Reserved Interruptible Capacity Application received from a Shipper under Section 3.4.1(a) if:
  - (i) such application does not comply with the requirements of Section 3.4.1(d); or
  - (ii) there is insufficient Available Interruptible Capacity within the relevant Distribution Network to meet the Reserved Interruptible Capacity Application.
- (d) If the Distributor approves a Reserved Interruptible Capacity Application (in whole or part), it shall, within seven (7) Days of such approval, enter into a GDA(s) with such Shipper. A separate GDA shall be concluded between the Distributor and such Shipper in respect of each Exit Point comprising its Reserved Interruptible Capacity.

### 3.5 NOMINATIONS PURSUANT TO RESERVED CAPACITY

- (a) In accordance with Section 4.1, a Shipper shall, subject to the terms of the relevant GDA, have the right to submit Nominations for gas up to its Reserved Capacity at any time.
- (b) The Distributor shall issue a Confirmed Nomination in respect of a Nomination which is based upon a Shipper's Reserved Interruptible Capacity on a Day when Nominations which have been submitted for gas from Shippers with Reserved Firm Capacity within such Distribution Network (taking into account any Authorised Capacity Overrun Amount) are less than the Total Capacity within such Distribution Network and the Distributor considers such Confirmed Nomination will not affect the distribution of gas to all Exit Points within such Distribution Network based upon all the Confirmed Nominations on that Day.

### 3.6 PRINCIPLE OF "USE IT OR LOSE IT" IN RESPECT OF RESERVED FIRM CAPACITY

- 3.6.1 The principle under this Section 3.6 is to ensure that the Total Capacity within each Distribution Network is used efficiently and safely and that a barrier to the development of effective competition does not arise through restricted or inadequate usage of Reserved Firm Capacity by Shippers. In particular, this principle aims to ensure that the Total Capacity that could be available to Shippers is indeed made available for use by those who need it.
- 3.6.2 If the aggregate Shipper Exit Quantity of any Shipper (the "**Under-using Shipper**") within a Distribution Network during any consecutive three (3) months period is less than 70% of the aggregate Reserved Firm Capacity specified in its GDAs within such Distribution Network over



that period of time, other than for reasons of Force Majeure, Maintenance Days or compliance with an Operational Flow Order (the portion of the Reserved Firm Capacity specified in such GDAs in relation to such Distribution Network above the average Shipper Exit Quantity of that Shipper at such Distribution Network during that period of time being the "**Dormant Reserved Firm Capacity**") and, if there is any Reserved Firm Capacity Application from another Shipper under Section 3.2 specifying such Distribution Network which (A) would have to be rejected by the Distributor in accordance with Section 3.2.2(c)(ii), but (B) can be satisfied by utilising that Dormant Reserved Firm Capacity, or a portion thereof, upon receipt of such Reserved Firm Capacity Application:

- (a) the Distributor shall give notice thereof to the Under-using Shipper;
- (b) where the aggregate Shipper Exit Quantity for such Under-using Shipper within such Distribution Network during the 14 Day period after receipt of such notice is less than 70% of the aggregate Reserved Firm Capacity specified in GDAs with such Under-using Shipper within such Distribution Network, the Distributor may, in its discretion:
  - (i) offer such Dormant Reserved Firm Capacity or a portion thereof to the Shipper making the Reserved Firm Capacity Application; and
  - (ii) if such Shipper making the Reserved Firm Capacity Application accepts the Distributor's offer, issue a notice of reduction to the Under-using Shipper, informing them that the Dormant Reserved Firm Capacity, or a portion thereof, will be reduced from the aggregate Reserved Firm Capacity then expressed in its GDAs for Reserved Firm Capacity within such Distribution Network in five (5) Days from the date of the notice of reduction (and such reduction shall be applied across the Under-using Shipper's GDAs on a pro rata basis).
- (c) In the circumstances described in paragraph (b) above, the Distributor shall accordingly conclude a GDA(s) with the Shipper making the Reserved Firm Capacity Application in the same manner as expressed in Section 3.2.2(d) which would reflect the Dormant Reserved Firm Capacity, or portion thereof, as the quantity of such Shipper's Reserved Firm Capacity within such Distribution Network.

### 3.7 TRANSFER OF RESERVED CAPACITY

- (a) A Shipper ("**Transferor**") may apply to the Distributor to transfer all or part of the Reserved Capacity expressed in a GDA(s) to another Shipper ("**Transferee**"), subject to the Distributor's prior written consent.
- (b) Such transfer may only be made to a Transferee:





- (i) in respect of a period of minimum 12 months or the full remainder of the Reservation Period for such Reserved Capacity if such period is less than 12 months; and
  - (ii) subject to signing of a GDA(s) between the Transferee and the Distributor.
- (c) A Transferor intending to make the said transfer shall, jointly with the Transferee, submit to the Distributor a Reserved Capacity transfer application in the form published in the Website. ("**Capacity Transfer Application**").
- (d) The Distributor shall approve or reject a Capacity Transfer Application as soon as reasonably practicable and in any event not later than thirty (30) Days after the date the Capacity Transfer Application was made.
- (e) The Distributor may only reject a Capacity Transfer Application received from a Transferor and a Transferee under paragraph (a) above if such Capacity Transfer Application does not comply with the requirements of paragraphs (b) and (c) above.
- (f) If the Distributor approves a Capacity Transfer Application, it shall:
- (i) enter into a GDA(s) with the Transferee in the same manner as expressed in Section 3.2.2(d) or 3.4.2(d), as the case may be, and the quantity (or portion thereof) identified in such transferred Reserved Capacity shall be expressly identified as the quantity in that GDA(s); and
  - (ii) if such transfer is for part only of such Transferor's quantity in its Reserved Capacity, reduce the quantity by the amount of the transferred portion of quantity in the Reserved Capacity in the GDA(s) with the Transferor or, if such transfer is for all of such Transferor's quantity in its Reserved Capacity, terminate and cancel the GDA with the Transferor.
- (g) Notwithstanding anything contrary herein, a Shipper shall not sub-let part, or all, of its Reserved Capacity to any third party. For the avoidance of doubt, the Transferor remains liable to the Distributor for the Transferor's obligations (financial or otherwise) that have vested, matured, or accrued under the GDA(s) prior to the transfer until (and including) the date of transfer and the Transferee shall be liable to the Distributor for all obligations (finance or otherwise) that arise under the GDA(s) after the date of transfer.

### 3.8 OPEN SEASON

- (a) Open Season is carried out to assess market demand by evaluating the need for greater Total Capacity within a Distribution Network and the possibility of expansion, or development, of the Distribution Networks (and the introduction of new Entry Points and Exit Points).



- (b) This Open Season will be carried out by the Distributor in accordance with this Section 3.8.
- (c) For the purpose of this Open Season, the Distributor shall:
  - (i) carry out a Distribution Network Assessment in accordance with Section 3.9;
  - (ii) invite Shippers to submit new Reserved Firm Capacity Applications and/or offer to surrender existing Reserved Firm Capacity or part thereof; and
  - (iii) provide adequate publicity in respect of such invitation ("**Distribution Network Assessment Notification**").
- (d) The Distribution Network Assessment Notification shall specify:
  - (i) a description of the circumstances giving rise to the Distribution Network Assessment Notification;
  - (ii) the closing date ("**Distribution Network Assessment Closing Date**") for the submission of applications and/or offers in accordance with Section 3.9.1(c) and/or (d); and
  - (iii) such other matters as are consistent with this Section 3 as the Distributor may reasonably determine.

### 3.9 DEVELOPMENT AND EXPANSION OF DISTRIBUTION NETWORKS

#### 3.9.1 Distribution Network Assessment

- (a) Where:
  - (i) a Shipper approaches the Commission due to its application under Section 3.2 having been rejected for the reasons expressed in Section 3.2.2(c)(ii);
  - (ii) the Commission foresees a potential physical congestion in a Distribution Network;
  - (iii) the Distributor foresees a potential physical congestion in a Distribution Network (which will occur if there is a reasonable expectation that the demand for Reserved Firm Capacity at such Distribution Network will exceed seventy five percent (75%) of the Total Capacity of such Distribution Network in the next twenty four (24) months or a new demand requirement over the next twenty four (24) months where there is no existing pipeline infrastructure); or
  - (iv) the circumstances described in paragraph (i), (ii) or (iii) above have not occurred in any consecutive period of five (5) years from the last Distribution Network Assessment,





the Distributor shall, subject to Sections 3.9.3 and 3.9.4, conduct a Distribution Network Assessment.

- (b) If the Distribution Network Assessment is triggered by the Commission in accordance with paragraph (a)(i) or (ii) above, the Distribution Network Assessment Notification will be issued within five (5) Business Days of receipt by the Distributor of the Commission's notification.

- (c) A Reserved Firm Capacity Application submitted in response to a Distribution Network Assessment Notification ("**Distribution Network Assessment Capacity Application**") shall:

- (i) specify each of the details set out in Section 3.2.1(f); and

- (ii) specify any other condition in respect of which the application is made subject to,

and, for the avoidance of doubt, the Distribution Network Assessment Capacity Application may be submitted in respect of any Distribution Network and may not be accepted by the Distributor other than in accordance with paragraph (h) below.

- (d) An offer to surrender a Reserved Firm Capacity, or part thereof, ("**Turn-back Offer**") submitted by a Shipper in response to a Distribution Network Assessment Notification shall specify:

- (i) the identity of the Shipper;

- (ii) the Exit Point(s) which such Reserved Firm Capacity relates to;

- (iii) the date from which the Shipper proposes that the surrender of the Reserved Firm Capacity, or part thereof, be effective;

- (iv) the quantity (or part thereof) then expressed in GDA(s) for such Reserved Firm Capacity that the Shipper proposes to surrender;

- (v) the relevant GDA Reference Number(s); and

- (vi) any other condition in respect of which the Turn-back Offer is made subject to,

and, for the avoidance of doubt, the Distributor may accept a Turn-back Offer at any time after the Distribution Network Assessment Closing Date and before the expiry of the period referred to in paragraph (e) below, and the Shipper submitting such Turn-back Offer shall be bound upon such acceptance. The Distributor may indicate to a Shipper whose Reserved Firm Capacity is under-utilised on a regular basis that it might wish to consider



submitting a Turn-back Offer pursuant to such Distribution Network Assessment Notification.

- (e) A Distribution Network Assessment Capacity Application and a Turn-back Offer may be withdrawn at any time up to, but not after, the Distribution Network Assessment Closing Date and the Distributor may reject a Distribution Network Assessment Capacity Application or a Turn-back Offer which does not comply with paragraphs (c) or (as the case may be) (d) above within three (3) Business Days of receipt of such Distribution Network Assessment Capacity Application or Turn-back Offer; provided that a Turn-back Offer shall be deemed to have lapsed (and no longer be capable of acceptance by the Distributor) thirty (30) Days after the Distribution Network Assessment Closing Date.
- (f) Following the Distribution Network Assessment Closing Date, the Distributor shall consider each Distribution Network Assessment Capacity Application and/or Turn-back Offer (which has not been withdrawn by a Shipper or rejected by the Distributor) made by a Shipper under paragraphs (c) and (d) above and determine, in respect of such Distribution Network:
  - (i) the aggregate amount of Reserved Firm Capacity in respect of which Distribution Network Assessment Capacity Applications were submitted;
  - (ii) the aggregate amount of Reserved Firm Capacity in respect of which Turn-back Offers were submitted ("**Aggregate Capacity Turn-back Offer Quantity**"); and
  - (iii) the amount of Available Firm Capacity.
- (g) A "**Capacity Shortfall**" exists in respect of a Distribution Network following a Distribution Network Assessment if the amount under paragraph (f)(i) above exceeds the aggregate of the amounts under paragraphs (f)(ii) and (f)(iii) above.
- (h) Subject to the provisions of this Section 3, and except where a Capacity Shortfall exists (in which case paragraph (j) below applies), the Distributor shall within one (1) month of the Distribution Network Assessment Closing Date notify each relevant Shipper who has submitted a Distribution Network Assessment Capacity Application where such application(s) can be satisfied by utilising Reserved Firm Capacity which is the subject of Turn-back Offers, and where such Shipper confirms to the Distributor within ten (10) Business Days of such notice that it is prepared to accept the Reserved Firm Capacity which is the subject of Turn-back Offers, the Distributor shall be deemed to have accepted the Shipper's Distribution Network Assessment Capacity Application. The Distributor shall enter into a GDA(s) with such Shipper in the same manner as expressed in Section 3.2.2(d).
- (i) Where a Shipper gives a confirmation in accordance with paragraph (h) above, the relevant Turn-back Offer(s) shall be accepted without further action being required on the part of



the Distributor and the GDA(s) in respect of the Reserved Firm Capacity which is the subject of the relevant Turn-back Offer(s), will either be cancelled if the Turn-back Offer(s) relates to the whole quantity expressed in the GDA for such Reserved Firm Capacity, or will be amended to reflect the reduced quantity for such Reserved Firm Capacity if the Turn-back Offer(s) relates to part of the quantity expressed in the GDA(s) for such Reserved Firm Capacity, with effect from the date specified in paragraph (d)(iii) above, and the Distributor shall notify the Shipper submitting the Turn-back Offer that such Turn-back Offer has been accepted.

- (j) Where, in respect of any Distribution Network, a Capacity Shortfall exists, the Distributor will allocate the Reserved Firm Capacity in respect of such Distribution Network that are the subject of Turn-back Offers to Shippers on a first come, first serve basis. Before undertaking any actions in accordance with Section 3.9.2, the Distributor shall:
  - (i) approach Shippers that have submitted a Distribution Network Assessment Capacity Application in which they have indicated they are willing to consider a reservation of Reserved Firm Capacity of less than they have applied for, and enquire whether they will accept a lower level of Reserved Firm Capacity. The Distributor will approach the relevant Shippers on a first-come-first-serve basis (i.e. Shippers that submitted their applications first will be approached first); and
  - (ii) approach the Shippers with current Reserved Firm Capacity and enquire if they will consider submitting a Turn-back Offer,

and the provisions expressed in paragraphs (c) to (i) above shall, to the extent of such reduced Distribution Network Assessment Capacity Applications and/or new Turn-back Offers, be re-applied by the Distributor.

#### 3.9.2 Proposed New Capacity

- (a) The Distributor shall, not later than three (3) Months following the Distribution Network Assessment Closing Date, notify the Commission and such notice shall specify:
  - (i) each Distribution Network Assessment Capacity Application submitted by a Shipper, which remains unsatisfied following the allocation of Reserved Firm Capacity under Sections 3.9.1(h) and 3.9.1(j);
  - (ii) what steps the Distributor is considering taking to enhance or construct, as the case may be, the relevant Distribution Network to provide greater Total Capacity within such Distribution Network to be able to accept those Distribution Network Assessment Capacity Application(s) under paragraph (a)(i) above ("**Proposed New Capacity**");



- (iii) the earliest date, in the opinion of the Distributor, by which the Proposed New Capacity could be made available to Shippers ("**Proposed New Capacity Start Date**");
  - (iv) any conditions, approvals, consents or permits which the Distributor would require in order to make the Proposed New Capacity available, the satisfaction, or obtaining, of which, would be a condition to the Proposed New Capacity being available from the Proposed New Capacity Start Date;
  - (v) an estimate of the quantity of gas (if any) which will be needed as Commissioning Gas and Linepack in respect of the Proposed New Capacity and details of the Shipper(s) who will make available such Commissioning Gas and/or Linepack to the Distributor; and
  - (vi) an estimate in reasonable detail (approved by the Commission) of the costs of the development of the Proposed New Capacity (including the cost associated with Commissioning Gas and Linepack) together with an estimate (approved by the Commission) of the new Distribution Tariff that would apply once the Proposed New Capacity is available,
- (together, the "**Augmentation Plan**").
- (b) If the Commission does not approve the Augmentation Plan, the Distributor will have one (1) Month to submit a revised Augmentation Plan to the Commission that addresses any concerns raised by the Commission.
  - (c) Once the Augmentation Plan has been approved by the Commission, the Distributor shall notify each Shipper who submitted a Distribution Network Assessment Capacity Application which remains unsatisfied following the allocation of Reserved Firm Capacity under Section 3.9.1(h) and 3.9.1(j) and such notice shall contain the same details as contained in paragraph (a) above, as approved by the Commission.
  - (d) Where a Shipper receives a notice under paragraph (c) above, it may notify the Distributor not later than ten (10) Business Days following receipt of such notice that it wishes to be registered as holding the Proposed New Capacity, or part thereof, with effect from the Proposed New Capacity Start Date, and following such notice from a Shipper, the Distributor shall, as soon as reasonably practicable, issue to relevant Shippers an agreement in the same format as a GDA if the conditions specified in paragraph (a)(iv) above are satisfied.
  - (e) Nothing in this Section 3.9.2 shall oblige the Distributor to make available Proposed New Capacity to a Shipper who has received a notice under paragraph (c) above in respect of Proposed New Capacity which would have satisfied in whole or in part its Distribution



Network Assessment Capacity Application but has not notified the Distributor of its wish to be registered as holding any such Proposed New Capacity in accordance with paragraph (d) above.

- (f) Where some but not all Shippers notify the Distributor that they wish to be registered as holding the Proposed New Capacity in accordance with paragraph (d) above, the Distributor may revise the amount of Proposed New Capacity which it proposes to make available, and where the Distributor makes such revision, it shall notify all Shippers within twenty (20) Days of it making such decision, in which case those Shippers shall have a further five (5) Days from the date of such notification in which they must re-confirm to the Distributor that they still wish to be registered as holding the Proposed New Capacity with effect from the Proposed New Capacity Start Date, failing which the Shipper shall not be registered as holding such Proposed New Capacity.
- (g) The Distributor may construct Proposed New Capacity in excess of the aggregate amount of the capacity specified in the agreements issued to Shippers under paragraph (d) above provided that the Commission has given its prior written approval.

### 3.9.3 Request for Minor Expansion from a Shipper

- (a) If a Shipper submits an application under Section 3.2 which has been rejected by the Distributor pursuant to Section 3.2.2(c)(ii), such Shipper may request the Distributor to expand or augment an Exit Point on a Distribution Network in accordance with this Section 3.9.3 by submitting an application for a Minor Expansion in the form as published in the Website which:
  - (i) sets out the physical specifications of the proposed expansion or augmentation ("**Minor Expansion**") at the relevant Exit Point;
  - (ii) identifies the Offtaker at the relevant Exit Point; and
  - (iii) includes any other condition in respect of which the request was made subject to, (the "**Minor Expansion Application**").
- (b) Upon receipt of a Minor Expansion Application, the Distributor may confirm in writing to the relevant Shipper:
  - (i) that it is willing and able to construct the Minor Expansion requested by the relevant Shipper in such Minor Expansion Application, subject to any changes for the purposes of the more efficient or cost-effective construction and/or operation of such proposed Minor Expansion, and references to such proposed Minor Expansion shall be deemed to include any such changes proposed by the Distributor;



- (ii) the earliest reasonable date, in the opinion of the Distributor, by which the Minor Expansion could be made available (the **"Minor Expansion Start Date"**);
  - (iii) any legal rights, conditions, approvals, consents or permits (including in relation to land) which the Distributor would require in order to construct the Minor Expansion and make available the Minor Expansion, the satisfaction, or obtaining, of which would be a condition to the proposed Minor Expansion being available (the **"Minor Expansion Consents"**); and
  - (iv) an estimate in reasonable detail of the costs of the development and construction of the proposed Minor Expansion, to include all costs, fees and expenses necessary for the construction and commissioning of the proposed Minor Expansion including, but without limitation, in relation to the purchase by the Distributor of Commissioning Gas and Linepack in respect of such Minor Expansion and the tendering, land acquisition, engineering work, design, procurement, construction, start-up and such other works as may be necessary or incidental for such construction and commissioning of the delivery of gas from the Distribution Network through the Minor Expansion to the Exit Point specified in the Minor Expansion Application, including obtaining the Minor Expansion Consents (the **"Minor Expansion Cost"**).
- (c) If the Distributor and the relevant Shipper agree on all the elements of the Minor Expansion, including the following:
- (i) the Minor Expansion Consents;
  - (ii) the Minor Expansion Cost; and
  - (iii) the Minor Expansion Start Date,
- the Distributor and the relevant Shipper shall execute an agreement (the **"Infrastructure Development Agreement"** or **"IDA"**) reflecting the relevant Exit Point, Reserved Firm Capacity, access during construction, and other information set out in the relevant Minor Expansion Application and the Distributor and the relevant Shipper shall, prior to the Minor Expansion Start Date, enter into a GDA for Reserved Firm Capacity, reflecting the expanded or augmented Exit Point in the manner identified at Section 3.2.2(d).
- (d) The method of cost recovery for any Minor Expansion will be subject to the approval of the Commission.
  - (e) If the Minor Expansion will, in the opinion of Distributor, require substantial investment, the Distributor has no obligation to proceed with the expansion.





#### 3.9.4 Option for a Shipper to construct New Interconnection / Expansion Facilities

- (a) If a Shipper submits an application under Section 3.2 which has been rejected by the Distributor pursuant to Section 3.2.2(c)(ii), such Shipper may submit a request to the Distributor for such Shipper, to construct new facilities at its own cost to expand, or augment an Exit Point on a Distribution Network in accordance with this Section 3.9.4 (**"New Facilities Consent Application"**) which:
- (i) sets out the physical specifications of the proposed facilities (**"New Facilities"**);
  - (ii) specifies the earliest reasonable date, in the opinion of such Shipper, by which the New Facilities could be transferred to the Distributor (the **"New Facilities Transfer Date"**);
  - (iii) specifies any legal rights, conditions, approvals, consents or permits (including in relation to land) which such Shipper, considers that it will require in order to construct and transfer to the Distributor the proposed New Facilities, the satisfaction, or obtaining, of which would be a condition to such New Facilities being transferred to the Distributor (the **"New Facilities Consents"**), including which of such New Facilities Consents shall be transferred to the Distributor in connection with the transfer of such New Facilities to the Distributor; and
  - (iv) includes any other condition in respect of which the request was made subject to.
- (b) Upon receipt of a New Facilities Consent Application, the Distributor may confirm in writing to the relevant Shipper:
- (i) that it consents to the construction of such New Facilities by the relevant Shipper as requested by the relevant Shipper, in such New Facilities Consent Application subject to any changes for the purposes of improving the quality or specifications of such proposed New Facilities or of the more efficient or cost-effective construction and/or operation of such proposed New Facilities, and references to such proposed New Facilities shall be deemed to include any such changes;
  - (ii) that it agrees to the proposed New Facilities Transfer Date set out in the New Facilities Consent Application;
  - (iii) that it agrees with the New Facilities Consents;
  - (iv) an estimate of the cost of gas (if any) which will be needed as Commissioning Gas and Linepack in respect of such New Facilities; and
  - (v) the nature of any legal rights, conditions, approvals, consents or permits (including in relation to land) which the Distributor would require (in addition to those of the



proposed New Facilities Consents which are to be transferred to the Distributor) in order for the Distributor to receive the New Facilities from the New Facilities Transfer Date (the "**New Facilities Distributor Consents**") and the estimated cost of obtaining such New Facilities Distributor Consents.

- (c) If the Distributor and the relevant Shipper, agree on all elements of the New Facilities, the Distributor and the relevant Shipper, shall execute an agreement in respect of the proposed New Facilities (reflecting the relevant Exit Point, Reserved Firm Capacity, cost of Commissioning Gas, the cost of Linepack, facilities transfer, assignment of warranties, defect liabilities, access during construction and other information set out in the relevant New Facilities Consent Application) and the Distributor and the relevant Shipper shall, prior to the New Facilities Transfer Date, enter into a GDA for Reserved Firm Capacity in the manner set out in Section 3.2.2(d).

### 3.10 DISTRIBUTION TARIFF

#### 3.10.1 Distribution Tariff

- (a) The Distribution Tariff for the Services rendered by the Distributor shall be as stated from time to time in the Website.
- (b) The Distribution Tariff is applicable throughout each Distribution Network.
- (c) The Distribution Tariff is the same regardless of the relevant the Exit Point.

#### 3.10.2 Firm Distribution Charge

- (a) A Shipper shall pay Firm Distribution Charges to the Distributor for that Shipper's Reserved Firm Capacity.
- (b) A Shipper will be charged for the Firm Distribution Charge on a monthly basis.
- (c) The "**Firm Distribution Charge**" for each Shipper in relation to each Month, unless otherwise specified in such Shipper's GDA(s), is the Reserved Firm Capacity set out in each GDA with such Shipper x the numbers of Days in such Month during which such GDAs are in force x the Distribution Tariff  $\left(\frac{\text{RM}}{\text{GJ per Day}}\right)$ .

#### 3.10.3 Interruptible Distribution Charge

- (a) A Shipper shall pay Interruptible Distribution Charges to the Distributor for that Shipper's Reserved Interruptible Capacity.
- (b) A Shipper will be charged for the Interruptible Distribution Charge on a monthly basis.





- (c) The "Interruptible Distribution Charge" for each Shipper in relation to each Month is the aggregate of all SQIs in relation to all Days in the relevant Month x Interruptible Factor x Distribution Tariff  $\left(\frac{\text{RM}}{\text{GJ per Day}}\right)$

where:

SQI is the aggregate Confirmed Nominations at all Exit Points for such Shipper where the Distributor has, in accordance with Sections 3.5(b) and 4.4(d)(iii), accepted a Nomination in respect of which such Shipper identified its Reserved Interruptible Capacity when making such Nomination for that Day.

#### 3.10.4 Distribution Tariff Revision / Adjustment

- (a) The Distributor has the right to revise the Distribution Tariff on the following grounds only:
- (i) at the end of each regulatory period as specified by the Commission;
  - (ii) where the Distributor undertakes major investment or capital improvements including:
    - A) for additional Entry Points or Exit Points;
    - B) change to the Total Capacity within a Distribution Network;
    - C) extend, improve, develop and/or replace a Distribution Network; or
    - D) a reduction to the aggregate amount of Reserved Firm Capacity in the Distribution Networks arising if GDAs with Shippers are terminated by the Distributor in accordance with Section 15.2,and in each case as approved by the Commission; or
  - (iii) following a Change in Law, as approved by the Commission.
- (b) In the event that there are changes in the Distribution Tariff, the Distributor shall notify all Shippers, and shall update the changes in the Distribution Tariff on the Website.

#### 3.11 OVERRUNS

##### 3.11.1 Authorised Overrun

- (a) A Shipper may apply for, by way of submitting an application to the Distributor, and hold, in respect of a Distribution Network in relation to which such Shipper holds Reserved Firm Capacity, the ability to offtake a quantity of gas from such Distribution Network during a Day in excess of the Reserved Firm Capacity at an Exit Point(s) as expressed in such



Shipper's GDAs for Reserved Firm Capacity in respect of such Distribution Network for the next Day (the "**Authorised Capacity Overrun**").

- (b) An application for an Authorised Capacity Overrun shall be submitted at any time before 1000 hours on the Day prior to the Day to which such Authorised Capacity Overrun would apply and shall specify:
  - (i) the relevant GDA Reference Number(s);
  - (ii) the Exit Point(s) in respect of which the application is made; and
  - (iii) the increased quantity beyond the Reserved Firm Capacity being applied for in respect of such Exit Point (the "**Authorised Capacity Overrun Amount**").
- (c) The Distributor may (in its sole discretion) reject an application which does not comply with the requirements of paragraph (b) above or where the Shipper making the application has committed a Shipper Default under Section 15.2.
- (d) The Distributor shall consider applications for Authorised Capacity Overrun under paragraph (a) in the order in which such applications are submitted by Shippers.
- (e) The Distributor may (in its sole discretion) accept applications for Authorised Capacity Overruns from Shippers provided that, in considering whether to accept such applications, the Distributor shall consider in respect of the relevant Day and the relevant Distribution Network:
  - (i) the Nominations received by Shippers with Reserved Firm Capacity;
  - (ii) the maximum rate of gas at which gas can be withdrawn at the relevant Exit Point;
  - (iii) the Total Capacity of the relevant Distribution Network; and
  - (iv) earlier applications for Authorised Capacity Overrun Amounts which the Distributor has already accepted.
- (f) Nothing in this Section 3.11.1 shall oblige the Distributor to accept an application for an Authorised Capacity Overrun; provided that the Distributor may only accept an application for an Authorised Capacity Overrun for the Authorised Capacity Overrun Amount specified in the application.
- (g) The Distributor shall confirm to the Shipper making the application for an Authorised Capacity Overrun whether such application has been accepted or rejected at the time it issues Confirmed Nominations in accordance with Section 4.4(a) for such Day.



- (h) For the avoidance of doubt, a decision by the Distributor to accept an application for an Authorised Capacity Overrun from a Shipper shall in no way affect the amount of Reserved Firm Capacity in the GDA(s) in respect of which such application had been made with that Shipper.

### 3.11.2 Overrun Charges

- (a) In respect of a Day in which a Shipper holds an Authorised Capacity Overrun, the relevant Shipper shall pay to the Distributor an amount ("**Authorised Capacity Overrun Charge**") for each application for an Authorised Capacity Overrun which the Distributor has accepted, calculated in accordance with the following formula:

$$ACOC = ACOA \times (DT \times 1.2) \times \text{Number of Days}$$

where:

ACOC is the Authorised Capacity Overrun Charge;

DT is the Distribution Tariff; and

ACOA is the Authorised Capacity Overrun Amount in such application submitted by such Shipper and accepted by the Distributor in accordance with Section 3.11.1(e) (whether or not utilised in full by such Shipper).

- (b) For each Exit Point, when a Shipper's Exit Quantity from a Distribution Network a quantity of gas during a Day that exceeds:

- (i) the Confirmed Nomination at that Exit Point for that Day with that Shipper by more than two per cent (2%); or
- (ii) the quantity specified in an Operational Flow Order for that Exit Point and that Shipper by more than two per cent (2%),

(such excess beyond the two percent (2%) threshold being the **Unauthorised Capacity Overrun Amount**), the relevant Shipper shall, in respect of such Day, pay to the Distributor an amount ("**Unauthorised Capacity Overrun Charge**") calculated in accordance with the following formula:

$$UCOC = UCOA \times (DT \times 2)$$

where:

UCOC is the Unauthorised Capacity Overrun Charge

DT is the Distribution Tariff; and



UCOA is the Unauthorised Capacity Overrun Amount.

Authorised Capacity Overrun Charges and Unauthorised Capacity Overrun Charges shall be invoiced and payable in accordance with Section 13.



## Section 4 - NOMINATION AND SCHEDULING

### 4

#### 4.1 OVERVIEW

The nomination and scheduling of Services will be undertaken in accordance with the procedures set out in this Section 4.

#### 4.2 NOMINATION

- (a) A Shipper must notify the Distributor of the quantities of gas which such Shipper intends to offtake at each Exit Point on each Day during the Reservation Period as expressed in each GDA ("**Nomination**").
- (b) A Shipper's Nomination shall be made in the format as published in the Website and shall:
  - (i) specify the Day or Days to which it relates;
  - (ii) specify the relevant Exit Point;
  - (iii) specify the quantity of gas to be offtaken from the relevant Exit Point for such Day;
  - (iv) identify the Offtaker which will offtake the corresponding quantity of gas from the Distribution Network;
  - (v) specify if the Nomination (or part thereof) is made pursuant to a Reserved Firm Capacity or Reserved Interruptible Capacity and/or includes an application for an Authorised Capacity Overrun; and
  - (vi) identify each GDA Reference Number pursuant to which the Nomination is made.

#### 4.3 SUBMISSION OF NOMINATION

- (a) A Shipper must submit Monthly Nominations and Daily Nominations to the Distributor for the quantity of gas to be offtaken from each Exit Point by the following cut-off times.

Period	Nomination cut-off time	Effective time
Monthly Nomination	1200 hours on the Day that is 7 Days prior to the first Day of the Month	0600 hours on the first Day of the Month and for each Day, for the remainder of the Month



Daily Nomination	1000 hours on the Day prior to the Day on which the Services are required	0600 hours on the Day on which the Services are required and each of the 6 Days following that Day
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- (b) The Monthly Nomination made in respect of a Day will continue to apply until the relevant Shipper submits a Daily Nomination applicable to such Day. If no Daily Nomination is submitted by a Shipper in respect of a Day, the Monthly Nomination made by that Shipper for that Day shall apply.
- (c) If a Shipper fails to submit a Monthly Nomination, its Nomination for each Day of the relevant Month shall be deemed to be zero. A failure to submit a Monthly Nomination does not preclude such Shipper from submitting a Daily Nomination in respect of any Day during the relevant Month and such Daily Nomination shall take precedence over any Monthly Nominations or failure to submit Monthly Nominations.
- (d) Subject to paragraph (c) below, a Shipper must not make a Nomination for an aggregate quantity of gas at an Exit Point in a Day in excess of the Reserved Firm Capacity as expressed in its GDA(s) at such Exit Point unless it identifies that its Nomination includes an application for an Authorised Capacity Overrun.
- (e) The amount of gas which may be expressed in a Nomination of a Shipper in respect of a Day may be curtailed by the Distributor to less than the Reserved Firm Capacity as expressed in such Shipper's GDA(s) (potentially to zero) (and the Distributor must inform Shippers of any such Curtailment as soon as reasonably practicable) in the following circumstances:
  - (i) as a result of an Event of Force Majeure affecting the delivery of gas to such Exit Point on such Day;
  - (ii) if gas which will be received at an Entry Point to such Distribution Network on such Day will be Off-Specification Gas and will be rejected by the Distributor in accordance with Section 9.3;
  - (iii) for Scheduled Maintenance or Unscheduled Maintenance applicable to that Day which affects the delivery of gas to such Exit Point; or
  - (iv) an Operational Flow Order has been given pursuant to Section 12 and is applicable to such Exit Point on such Day.



- (f) The Distributor shall use its reasonable endeavours to accept any request by a Shipper for a change to any Monthly Nomination or Daily Nomination submitted after the applicable cut-off time specified in paragraph (a) above.

#### 4.4 ACCEPTANCE, REDUCTION OR REJECTION OF A NOMINATION

- (a) The Distributor may accept or reject, in accordance with paragraph (c), a Daily Nomination as soon as reasonably practicable, and in any event not later than 1700 hours on the Day prior to the Day on which the Services are required and must give a Shipper notice of any such acceptance or rejection. An accepted Daily Nomination shall be a "**Confirmed Nomination**" for the purposes of this AA.
- (b) If the Distributor does not issue to Shipper a notice in accordance with paragraph (a) above, the Distributor will be deemed to have given a Confirmed Nomination equivalent to the Daily Nomination.
- (c) The Distributor may reject a Nomination:
  - (i) which is not submitted in accordance with this Section 4; or
  - (ii) in accordance with the priority of Services expressed in paragraph (d) below.
- (d) In issuing a Confirmed Nomination, the Distributor shall give priority of Service (in descending order of priority) to:
  - (i) a Nomination in respect of which the Shipper submitting the Nomination holds Reserved Firm Capacity within such Distribution Network at such Exit Point;
  - (ii) a Nomination in respect of which (and to the extent paragraph (i) does not apply) the Shipper submitting the Nomination identifies it is making an application for an Authorised Capacity Overrun within such Distribution Network at such Exit Point; and
  - (iii) a Nomination in respect of which (and to the extent paragraphs (i) and (ii) do not apply) the Shipper submitting the Nomination holds Reserved Interruptible Capacity within such Distribution Network at such Exit Point,

and will issue such Confirmed Nominations in the above order of priority.

#### 4.5 ZERO NOMINATION

A Shipper will be deemed to have submitted a Nomination for a zero quantity of gas in respect of a Day if such Shipper has not submitted a Nomination in relation to that Day in accordance with this Section 4.



#### 4.6 REDUCTION IN SERVICES

- (a) The Distributor shall not be liable to a Shipper if gas is not distributed to Exit Points on a Distribution Network in accordance with a Confirmed Nomination during a Day in the following circumstances:
- (i) as a result of an Event of Force Majeure affecting the delivery of gas on such Day;
  - (ii) if gas received at an Entry Point to such Distribution Network on such Day is Off-Specification Gas and is rejected (or deemed rejected) by the Distributor in accordance with Section 9.2;
  - (iii) as a result of damage to such Distribution Network on such Day (unless caused as a result of the Gross Negligence or Wilful Misconduct of the Distributor);
  - (iv) if the rate of gas offtaken by a Shipper at such Exit Point on such Day exceeds the MHQ expressed in such Shipper's GDA applicable at such Exit Point;
  - (v) if an Operational Flow Order has been given pursuant to Section 12 and is applicable to such Exit Point on such Day (unless the reason for giving the Operational Flow Order arises as a result of the Gross Negligence or Wilful Misconduct of the Distributor);
  - (vi) for Scheduled Maintenance or Unscheduled Maintenance applicable to that Day;
  - (vii) if the Distributor is undertaking a Minor Expansion or developing New Facilities or Proposed New Capacity within a Distribution Network;
  - (viii) if the pressure of gas at that Entry Point or the relevant Exit Point is not within the prescribed pressure thresholds (unless caused as a result of the Gross Negligence or Wilful Misconduct of the Distributor); or
  - (ix) where the Distributor is unable to perform its obligations under this AA as a result of another Shipper or Connected Party at an Exit Point on such Distribution Network failing to comply with Sections 8.1 and 8.2.
- (b) In the circumstances described in Section 4.3(e) and paragraph (a) above, without relieving the Distributor of any of its obligations under this AA and/or a GDA, the Distributor is entitled to curtail the Services within a Distribution Network, in accordance with the following order of priority (with the first in the list being curtailed first):
- (i) Shippers with Reserved Capacity (or its Offtaker) in such Distribution Network whose act or omission caused the Distributor to have to take action to curtail Services;





- (ii) Shippers with Confirmed Nominations in respect of Reserved Interruptible Capacity for that Day;
  - (iii) Shippers with Reserved Firm Capacity in such Distribution Network in respect of which the Offtakers are identified as Non-Critical Offtakers and, for this purpose, the Distributor shall curtail in the following order:
    - A) Non-Critical Offtakers from a lateral line with a delivery pressure requirement above 3500kPag;
    - B) Non-Critical Offtakers from a feeder line with a delivery pressure requirement between 1034kPag and 2483kPag; and
    - C) Non-Critical Offtakers from a distribution line with a delivery pressure requirement of less than 400kPag,

provided always that the Distributor shall use all reasonable endeavours to curtail Shippers on a pro rata basis to their Reserved Firm Capacity in such Distribution Network and, for such purpose, each relevant Shipper shall identify to the Distributor the order to curtail its Non-Critical Offtakers within each category identified above in a curtailment arrangement which such Shipper shall maintain with the Distributor (and may update from time to time); and
  - (iv) Shippers with Reserved Firm Capacity in respect of which the Offtakers are identified as Critical Offtakers, provided always that the Distributor shall use all reasonable endeavours to curtail Shippers on a pro rata basis to their Reserved Firm Capacity in such Distribution Network and, for such purpose, each Shipper's curtailment arrangement with the Distributor shall also identify the order to curtail its Critical Offtakers.
- (c) Shippers will continue to be liable to pay the Distribution Charges in full for each Day notwithstanding that the Services are curtailed except to the extent that:
- (i) such Curtailment is for the reasons set forth in Sections 4.3(e)(i) or 4.6(a)(i);
  - (ii) such Curtailment arises due to Scheduled Maintenance and Unscheduled Maintenance in a Distribution Network beyond the Curtailment Allowance; or
  - (iii) such Curtailment is as a result of the Gross Negligence or Wilful Misconduct of the Distributor.
- (d) If a Shipper is not liable to pay the Distribution Charges as a result of a Curtailment pursuant to paragraph (c) above, the Distribution Charges payable by such Shipper in the relevant Month will be reduced pro rata by the quantity of Reserved Firm Capacity that the Distributor is unable to provide as a result of such Curtailment.



## Section 5 - LINEPACK AND INTERNAL GAS CONSUMPTION

### 5

#### 5.1 LINEPACK

##### 5.1.1 Ownership of Linepack

The Distributor will own the Linepack in each Distribution Network. Linepack is required to operate each Distribution Network safely and reliably.

##### 5.1.2 Further provision of Linepack

If there is a loss of Linepack as a result of damage to a Distribution Network or the requirement to purge gas from a Distribution Network as a result of it being Off-Specification Gas:

- (a) due to the acts or omissions of a Shipper, either:
  - (i) such Shipper shall provide replacement Linepack; or
  - (ii) if such Shipper is unable to provide replacement Linepack, the Distributor shall purchase replacement Linepack from any Shipper(s) at a price and quantity determined between the Distributor and such Shipper(s), as approved by the Commission, and the costs payable by the Distributor for such Linepack shall be recovered from the Shipper whose acts or omissions caused such damage or the requirement to purge; or
- (b) due to the acts or omissions of the Distributor, the Distributor shall purchase replacement Linepack from any Shipper(s) at a price and quantity determined between Distributor and such Shipper(s), as approved by the Commission; and
- (c) due to the acts or omissions of a third party or where no person can be identified as causing damage to such Distributions Network, the Distributor shall purchase replacement Linepack from any Shipper(s) at a price and quantity determined between Distributor and such Shipper(s), as approved by the Commission, and, to the extent the Distributor is unable to recover such costs from such third party despite using its best endeavour to do so, or through insurance, the Distributor shall be entitled to recover the costs associated with such Linepack within the Distributor's cost recovery base for the purpose of determining the Distribution Tariff.



## 5.2 INTERNAL GAS CONSUMPTION

### 5.2.1 IGC Gas

- (a) IGC Gas is required for operation and maintenance to ensure safe and reliable gas supplies from a Distribution Network and gas that is lost in a natural way during the operation of a Distribution Network. The Distributor shall make every effort to minimize the IGC Gas requirements of each Distribution Network.
- (b) The Distributor shall provide a detailed plan of provisioning IGC Gas in each Distribution Network to the Commission for approval on an annual basis. The plan shall, inter alia, include:
  - (i) applied methodology for estimation of IGC Gas (including methodologies for estimating natural losses);
  - (ii) estimated amount of IGC Gas; and
  - (iii) plan to manage IGC Gas requirements (the “**IGC Management Plan**”).



## Section 6 - QUANTITIES

### 6

#### 6.1 SHIPPER ENTRY QUANTITY

For each Shipper injecting gas at an Entry Point to a Distribution Network, the Shipper Entry Quantity for a Day in a Month for such Shipper at such Entry Point shall be calculated as follows:

$$SEQD_i = S + \frac{x}{y} (MEQ - z)$$

where:

- $SEQD_i$  is the Shipper Entry Quantity for a Shipper on such Day at an Entry Point
- $S$  is equal to the aggregate Shipper Exit Quantity for such Shipper on such Day at all Exit Points on such Distribution Network
- $x$  is equal to the aggregate Confirmed Nominations for such Shipper on such Day at all Exit Points on such Distribution Network
- $y$  is equal to the aggregate Confirmed Nominations for all Shippers on such Day at all Exit Points on such Distribution Network
- $MEQ$  is the Metered Entry Quantity at such Entry Point on such Day
- $z$  is equal to the aggregate Shipper Exit Quantity for each Shipper on such Day at all Exit Points on such Distribution Network.

#### 6.2 SHIPPER EXIT QUANTITY

- (a) For each Shipper offtaking gas at an Exit Point from a Distribution Network, the Shipper Exit Quantity for a Day in a Month for such Shipper at such Exit Point shall be determined in accordance with this Section 6.2.
- (b) In relation to an Exit Point from a Distribution Network in respect of which a Shipper is the only Shipper, the Shipper Exit Quantity for that Shipper on such Day shall be the Metered Exit Quantity.
- (c) In respect of each Exit Point from a Distribution Network in relation to which there is more than one (1) Shipper at such Exit Point on such Day the Distributor will allocate the Metered Exit Quantity amongst those Shippers at such Exit Point based upon the following formula:



$$S = Q \times \frac{N}{A}$$

where:

- $S$  the Shipper Exit Quantity on such Day at such Exit Point
- $Q$  the Metered Exit Quantity on such Day at such Exit Point
- $N$  such Shipper's Confirmed Nomination on such Day at such Exit Point
- $A$  the aggregate of all Shippers' Confirmation Nominations on such Day at such Exit Point



## Section 7 - TITLE AND RISK

### 7

#### 7.1 TITLE AND RISK

- (a) Title to and risk of gas to all quantities of gas (save for Linepack) distributed within a Distribution Network shall at all times remain with the relevant Shipper.
- (b) Title and risk of Linepack shall at all times remain with the Distributor.
- (c) Possession and control of gas:
  - (i) injected into a Distribution Network shall pass from the Shippers to the Distributor at the relevant point of injection determined in accordance with Section 7.2(a); and
  - (ii) offtaken from a Distribution Network shall return to the Shippers from the Distributor at the relevant point of offtake determined in accordance with Section 7.3.
- (d) Any loss or damage to the gas whilst in the Distributor's possession and control will be for the Distributor's account only to the extent that the loss or damage is proven to have been caused by the Gross Negligence or Wilful Misconduct of the Distributor and subject to the limitations and exclusions of liabilities in Section 15.4 and the Distributor's rights in relation to Off-Specification Gas under Section 9.
- (e) In respect of a Shared Exit Point, possession and control of gas shall, for the purposes of paragraph (c)(ii) above, be deemed to pass to the Shippers in such proportions as are consistent with Section 6.2.
- (f) In respect of a Shared Entry Point, possession and control of gas shall, for the purposes of paragraph (c)(i) above, be deemed to pass from the Shippers in such proportions as are consistent with Section 6.1.

#### 7.2 ENTRY OF GAS

- (a) The point where possession and control of gas passes to the Distributor at an Entry Point shall be identified by the Distributor in each GDA which identifies that Entry Point.
- (b) Each Shipper warrants to the Distributor that:
  - (i) such Shipper will have title (at the point of delivery) to all gas injected by that Shipper into the relevant Distribution Network at any Entry Point; and
  - (ii) all such gas will (at such point) be free of any lien, charge, encumbrance or adverse claim (as to title or otherwise), including any claim for any tax, royalty or other charge



in respect of the production, gathering, processing and tendering of gas arising on or before its injection into such Distribution Network.

- (c) Each Shipper shall indemnify the Distributor and hold it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by, or made or brought against, the Distributor in consequence of any breach of the warranties in Section 7.2(b) including, without any limitation, any claim by a third party to title in gas injected into a Distribution Network at an Entry Point.
- (d) For the purposes of the warranty in Section 7.2(b) where a Shipper has arranged to receive delivery of gas at the Entry Point from a person (or persons) who has (or jointly have) title to the gas up to the Entry Point, then such Shipper shall procure that title to the gas shall pass, immediately upon delivery of gas at the Entry Point, to the relevant Shipper, who shall then immediately pass title to the gas to the Distributor at the same Entry Point to facilitate the injection of such gas by such Shipper into a Distribution Network.

### 7.3 EXIT OF GAS

The point where possession and control of gas returns to a Shipper at an Exit Point shall be identified by the Distributor in each GDA which identifies that Exit Point.



## Section 8 - CONNECTION TO A DISTRIBUTION NETWORK

### 8

#### 8.1 GAS CONNECTION MANUAL

- 8.1.1 This Section 8 requires an agreement to be established between the Distributor and each Connected Party at each Entry Point and each Exit Point regarding the physical connection, measurement and operational safety arrangements.
- 8.1.2 A Shipper must procure that there is a connection manual ("**Gas Connection Manual**") in effect in respect of each Entry Point and Exit Point between the Distributor and the relevant Connected Party at which such Shipper has concluded a GDA.
- 8.1.3 A Shipper must ensure that the Connected Party at each Exit Point shall provide to the Distributor free of charge such space, supply of electricity and water, and drainage as the Distributor may reasonably require for the installation, operation and maintenance of the Measuring Equipment. The supply of electricity and water, and provision of drainage shall be made available up to the space allocated for the Measuring Equipment.
- 8.1.4 The objective of a Gas Connection Manual (GCM) is to:
- (a) ensure technical compatibility of the connections at each Entry Point and Exit Point for the safe and reliable operation of each Distribution Network;
  - (b) clearly define the roles and responsibilities of the Distributor and the Connected Parties at each Entry Point and Exit Point;
  - (c) ensure fair, transparent and non-discriminatory connection arrangements between the Distributor and the Connected Parties; and
  - (d) enable the Distributor to provide the Services in accordance with this AA.

#### 8.2 CONNECTION OBLIGATIONS OF CONNECTED PARTIES

- 8.2.1 Without limiting its obligations under or pursuant to the Code, Applicable Laws, this AA or any other agreements and/or arrangements with the Distributor, including each GCM, a Connected Party must:
- (a) ensure the compliance of its Upstream Connected Facilities or Downstream Connected Facilities, as the case may be, with all applicable standards, Applicable Laws and the relevant GCM;





- (b) allow the Distributor to inspect its Upstream Connected Facilities or Downstream Connected Facilities, as the case may be, when necessary;
- (c) ensure that all connection equipment owned, operated or controlled by it at all times complies with the applicable requirements and conditions for connection in accordance with the relevant GCM;
- (d) not make any material modification or addition to any connection equipment that is the subject of the relevant GCM without the prior written consent of the Distributor; and
- (e) provide access at any time for Distributor to inspect the Upstream Connected Facilities or Downstream Connected Facilities located within the Connected Party's premises when necessary;
- (f) not adjust, alter, remove, interfere, tamper with, allow interference or tampering with, destroy or damage in any way whatsoever the Measuring Equipment or the Distributor's other gas facilities or any part thereof if it interferes with, or prevents the correct reading, recording or measurement of gas delivered to the relevant Exit Point.

### 8.3 CONNECTION OBLIGATIONS OF THE DISTRIBUTOR

8.3.1 Without limiting its rights and obligations under or pursuant to the Code, Applicable Laws, this AA or any other agreements and/or arrangements with a Connected Party, including the GCM, the Distributor must:

- (a) ensure the compliance of the Distribution Network with all applicable standards, Applicable Laws and the relevant GCM;
- (b) allow a Connected Party to inspect the portion of any Distribution Network within a Connected Party's premises when necessary on the terms set out in the GCM;
- (c) ensure that all connection equipment owned, operated or controlled by it at all times complies with applicable requirements and conditions for connection in accordance with the relevant GCM;
- (d) not make any material modifications to any connection equipment that is the subject of the GCM without sufficient prior notice to the relevant Connected Party; and
- (e) notify the relevant Shipper with Reserved Capacity at an Exit Point if the Distributor:
  - (i) notifies a Connected Party at such Exit Point of its breach of the relevant GCM; or
  - (ii) disconnects or reconnects the relevant Downstream Connected Facility from the relevant Distribution Network in accordance with relevant GCM.



- 8.3.2 The existing Upstream Connected Facilities and Downstream Connected Facilities, as the case may be, will be required to adopt and adhere to the provision of this Section 8 in order to ensure consistency of interfaces in a Distribution Network as between the Distributor and Connected Parties.



## Section 9 - ENTRY AND EXIT REQUIREMENTS: GAS SPECIFICATION

### 9

#### 9.1 COMPLIANCE WITH GAS SPECIFICATION AT ENTRY POINTS

- (a) All gas delivered or to be delivered at an Entry Point shall conform to the Gas Specification specified in Schedule 2.
- (b) A Shipper must ensure that the pressure of gas entering a Distribution Network at an Entry Point is between the Minimum Required Operating Pressure and Maximum Allowable Operating Pressure as published in the website.

#### 9.2 CONSEQUENCES ARISING FROM THE DETECTION OF OFF-SPECIFICATION GAS

##### 9.2.1 Off-Specification Gas detected or identified prior to entering an Entry Point

- (a) A Shipper must promptly give the Distributor a notice (the "**Off-Specification Gas Notice**") if gas to be injected, being injected or that has been injected at any Entry Point by it does not or will not or did not comply with the Gas Specification ("**Off-Specification Gas**").
- (b) The Off-Specification Gas Notice must include all information available to such Shipper in respect of the Off-Specification Gas, including:
  - (i) each aspect of the Gas Specification with which it fails to or is anticipated to fail to comply, and the degree of its failure, or anticipated failure, to comply;
  - (ii) the reasons for the failure (if then known);
  - (iii) such Shipper's good faith best estimate of the likely time such Shipper will be able to resume delivery of gas in accordance with the Gas Specification; and
  - (iv) if applicable, such Shipper's request to the Distributor that such Off-Specification Gas be permitted to be, or continue to be, injected at an Entry Point.
- (c) Upon receipt of an Off-Specification Gas Notice, the Distributor must notify Shippers with Reserved Capacity within that Distribution Network (other than the Shippers responsible for the delivery of such Off-Specification Gas) of the same and make inquiries of those Shippers as to whether they or their Offtakers are willing to accept the Off-Specification Gas before the Distributor can confirm its willingness to accept Off-Specification Gas in accordance with paragraph (e) below.
- (d) Shippers (other than the Shipper who is responsible for the delivery of such Off-Specification Gas) must use reasonable endeavours to accept, but otherwise may refuse



to take delivery of, Off-Specification Gas at an Exit Point from the relevant Distribution Network.

- (e) The Distributor will use reasonable endeavours to accept the Off-Specification Gas after considering the impact of such Off-Specification Gas to the Distribution Network or otherwise will reject the injection or anticipated injection of Off-Specification Gas at an Entry Point by notice to all Shippers at such Entry Point. In the event the Shippers did not receive notification from the Distributor confirming the Distributor's willingness to accept that Off-Specification Gas, the Distributor will be deemed to have rejected the Off-Specification Gas
- (f) If Off-Specification Gas that is accepted by the Distributor varies from the type and degree of non-conformance specified in the relevant Off-Specification Notice, the Distributor is deemed to have rejected the Off-Specification Gas.
- (g) If a Shipper fails to give an Off-Specification Gas Notice to the Distributor, but Off-Specification Gas is injected into a Distribution Network at an Entry Point, or Off-Specification Gas that is accepted by the Distributor varies from the type and degree of non-conformance specified in the relevant Off-Specification Gas Notice, the Distributor is deemed to have rejected the Off-Specification Gas.
- (h) If a Shipper fails to give an Off-Specification Gas Notice to the Distributor and/or the Distributor detected that Off-Specification Gas has been injected into a Distribution Network at an Entry Point, the Distributor must notify Shippers with Reserved Capacity within that Distribution Network of the same and make inquiries of those Shippers as to whether they or their Offtakers are willing to accept the Off-Specification Gas before the Distributor can suspend (completely or partially) the delivery of gas to one or more Shippers at one or more Exit Points from the relevant Distribution Network. Shippers must use reasonable endeavours to accept, but otherwise may refuse to take delivery of, Off-Specification Gas at an Exit Point from the relevant Distribution Network.
- (i) If gas received at an Entry Point is Off-Specification Gas and has not been accepted by the Distributor (or is deemed rejected by the Distributor), the Distributor may:
  - (i) suspend (completely or partially) receipt of gas from the relevant Shipper with immediate effect, until such time as the Distributor is satisfied that gas which such Shipper is able to inject into a Distribution Network meets the Gas Specification; and/or
  - (ii) dispose of any Off-Specification Gas that enters a Distribution Network, in a manner deemed fit by the Distributor and in accordance with Applicable Laws, in order to protect such Distribution Network and/or Downstream Connected Facilities.



#### 9.2.2 Liability for Off-Specification Gas

- (a) The Distributor shall not be liable to any Shipper for any losses incurred by Shippers or Offtakers whatsoever arising from Off-Specification Gas being injected at an Entry Point or being prevented from being injected at an Entry Point, unless caused by the Distributor's Gross Negligence or Wilful Misconduct.
- (b) If a Shipper injects or may inject Off-Specification Gas at an Entry Point (regardless of whether the Distributor has accepted such Off-Specification Gas):
  - (i) such Shipper must use reasonable endeavours to remedy the situation as quickly as possible so as to ensure that gas will, at the Entry Points conform to the Gas Specification; and
  - (ii) if Off-Specification Gas is injected as an Entry Point (including in a situation where the Distributor has indicated its acceptance to the injection of Off-Specification Gas at an Entry Point), such Shipper must indemnify the Distributor against any loss incurred by the Distributor arising from that Off-Specification Gas, including:
    - A) costs incurred by the Distributor to manage the Off-Specification Gas, including costs of co-mingling and disposing of such gas; and
    - B) additional costs of purchasing replacement Linepack in the event Off-Specification Gas has to be purged from a Distribution Network in accordance with Section 5.1.2.
- (c) If the Off-Specification Gas at an Entry Point is caused by the Distributor injecting excessive odourisation, the Distributor must:
  - (i) use reasonable endeavours to remedy the situation as quickly as possible to ensure that gas will, at the Exit Points from the relevant Distribution Network, conform to the Gas Specification; and
  - (ii) stop or curtail the delivery of the Off-Specification Gas at the relevant Exit Points, unless the relevant Shipper and relevant Offtaker at such Exit Point have confirmed their willingness to accept such Off-Specification Gas.
- (d) Any Dispute between the Parties relating to the specification of any gas injected at an Entry Point is to be determined by an Expert in accordance with Section 15.8.



## Section 10 - MAINTENANCE

### 10

#### 10.1 SCHEDULED MAINTENANCE

- (a) To enable maintenance of each Distribution Network, the Distributor shall have the right to undertake Scheduled Maintenance during a Year in accordance with the Scheduled Maintenance Plan applicable for that Year.
- (b) The Distributor shall publish on the Website its requirement for Scheduled Maintenance in respect of each Distribution Network by no later than 30<sup>th</sup> November in the Year preceding the Year in which the Scheduled Maintenance will be performed ("**Scheduled Maintenance Plan**"), when it is unable (due to planned maintenance) to accept a Nomination based upon Reserved Firm Capacity in a Distribution Network at the quantity expressed in a GDA for such Reserved Firm Capacity.
- (c) The Scheduled Maintenance Plan shall specify:
  - (i) the dates and time-schedule for the Scheduled Maintenance to be performed;
  - (ii) the affected Distribution Network(s) and the Exit Point(s) in respect of which the injection of, conveyance through, and offtake of gas from, a Distribution Network will be affected by the Scheduled Maintenance;
  - (iii) the reduced Reserved Firm Capacity within the affected Distribution Network(s); and
  - (iv) such other information as may be reasonable for the Distributor to include.
- (d) The Distributor shall endeavour to ensure that the impact of Curtailment of a Shipper's Reserved Firm Capacity due to Scheduled Maintenance is minimised.
- (e) If there is more than one (1) Shipper with Reserved Firm Capacity at a Distribution Network which will be affected by Scheduled Maintenance, the reduction to such Shipper's quantity expressed in its GDA for Reserved Firm Capacity for such Distribution Network shall be pro-rata with the reduction of all Shipper's quantity expressed in GDAs for Reserved Firm Capacity at such Distribution Network.

#### 10.1.2 Development of Scheduled Maintenance Plan

The Distributor must prepare a Scheduled Maintenance Plan for a Year so as to minimise disruption to affected parties and shall endeavour to co-ordinate and coincide with the maintenance proposed by the Shippers and Connected Parties.



#### 10.1.3 Changes to Scheduled Maintenance

At any time during a Year in which Scheduled Maintenance is to be performed, the Distributor may reschedule or change any of its Scheduled Maintenance Plan, or request additional requirement for Scheduled Maintenance beyond the content expressed in the Scheduled Maintenance Plan. The Distributor shall notify Shippers and the Commission of any changes to the Scheduled Maintenance Plan no less than seven (7) Business Days prior to the commencement of maintenance in accordance with that Scheduled Maintenance Plan (as amended). The Distributor shall discuss on a good faith basis with any Shippers affected by the proposed changes to be made to such Scheduled Maintenance Plan.

#### 10.1.4 Unscheduled Maintenance

The Distributor must notify Shippers with Reserved Firm Capacity within a Distribution Network of the type, extent and proposed duration of any Unscheduled Maintenance affecting such Distribution Network as soon as reasonably practicable ("**Unscheduled Maintenance Plan**") in the same form as provided for a Scheduled Maintenance Plan.

#### 10.1.5 Routine maintenance

For the avoidance of doubt, the Distributor may, at any time and at its sole discretion, without any prior notice to or seeking consent from Shippers or Connected Parties, undertake routine maintenance on a Distribution Network which does not affect the Reserved Capacity held by Shippers in such Distribution Network.

### 10.2 CONSEQUENCES OF SCHEDULED MAINTENANCE AND UNSCHEDULED MAINTENANCE

- (a) In respect of each Scheduled Maintenance and Unscheduled Maintenance, a Shipper shall only be permitted to submit Nominations for an aggregate quantity of gas up to its reduced quantity for Reserved Firm Capacity within such Distribution Network as identified in the Scheduled Maintenance Plan or Unscheduled Maintenance Plan, as the case may be, and the reduced quantity shall be taken into account when assessing any Unauthorised Capacity Overrun Charges applicable to that Day.
- (b) Each Shipper shall continue to be liable for Distribution Charges in full (as the quantity of Reserved Firm Capacity expressed in a GDA) notwithstanding the occurrence of Scheduled Maintenance or Unscheduled Maintenance provided such Scheduled Maintenance and Unscheduled Maintenance within such Distribution Network does not exceed the Curtailment Allowance.





## Section 11 - METERING

### 11

#### 11.1 METERING

- (a) The Metering Philosophy sets out:
  - (i) the technical and operational standards to be followed by Meter Owners in respect of the installation, design, maintenance and operation of Measuring Equipment; and
  - (ii) responsibility for Meter Reading and gas quality testing, validation and calibration as regards the Measuring Equipment,within each Distribution Network.
- (b) The Distributor does not have to test the quality of gas at each and every Exit Point, but may assume that the quality of gas delivered at each Exit Point from a Distribution Network is the same as the quality of gas injected at each Entry Point on the same Distribution Network in a Day.

#### 11.2 OWNERSHIP OF MEASURING EQUIPMENT

- (a) The Distributor will determine whether it owns, installs, maintains and operates Measuring Equipment at Entry Points or Exit Points or whether it makes alternative arrangements with the Connected Parties. If the Distributor is unable to reach agreement with the Connected Parties on this point, then Measuring Equipment at an Entry Point shall be owned, installed, maintained and operated by the Upstream Connected Party and Measuring Equipment at an Exit Point shall be owned, installed, maintained and operated by the Distributor.
- (b) If the Distributor, owns or operates and maintains any Measuring Equipment at an Entry Point and/or an Exit Point:
  - (i) the Measuring Equipment shall comply with all Applicable Laws as well as the Metering Philosophy;
  - (ii) the Distributor shall operate and maintain the Measuring Equipment in accordance with the standards of a Reasonable and Prudent Operator;
  - (iii) the Shipper shall have access to measurement data for the purpose of billing and monitoring purposes; and
  - (iv) the Shipper will have the right to inspect records and require validation and/or calibration of such Measuring Equipment.





- (c) If the Connected Party, owns or operates and maintains any Measuring Equipment at an Entry Point and/or an Exit Point:
  - (i) the Measuring Equipment shall comply with all Applicable Laws as well as the Metering Philosophy;
  - (ii) the Connected Party shall operate and maintain the Measuring Equipment in accordance with the standards of a Reasonable and Prudent Operator;
  - (iii) the Distributor shall have access to measurement data for the purpose of billing and monitoring purposes; and
  - (iv) the Distributor will have the right to inspect records and require validation and/or calibration, as the case may be, of such Measuring Equipment.

### 11.3 METER READING

- (a) The requirements to obtain Meter Readings from the Measuring Equipment installed at Entry Point and Exit Points are set out in this Section 11.3.
- (b) In respect of Measuring Equipment installed at an Entry Point, the relevant Meter Owner shall ensure that such Measuring Equipment is capable of generating Hourly Meter Readings and Daily Meter Readings on a real time basis. In the event the Distributor is not the Meter Owner, it is acknowledged that the Meter Owner shall maintain a GMS link with the Distributor so that the Distributor will receive such Meter Readings obtained at the Measuring Equipment at each Entry Point on a real time basis.
- (c) In respect of Measuring Equipment installed at an Exit Point, the relevant Meter Owner shall comply with the Metering Philosophy applicable to such Exit Point and shall install Measuring Equipment which is capable of generating Daily Meter Readings which can be obtained remotely (but not necessarily on a real time basis) or by extracting the data on site of such Measuring Equipment. Each Meter Owner shall ensure that a Daily Meter Reading at such Exit Point for each Day in a Month,  $m$ , is made available to the Distributor by the 7<sup>th</sup> Day of the Month,  $m + 1$ .
- (d) In the event of any malfunction of the Measuring Equipment at any Exit Point or failure to provide a Meter Reading, the quantities of gas taken by the Shipper at such Exit Point during such period shall be estimated based on the average Shipper Exit Quantities at such Exit Point for the three (3) months prior to the malfunction being detected.

### 11.4 VALIDATION AND CALIBRATION

- (a) The process and procedure of the validation and calibration to be carried out on the Measuring Equipment shall be in accordance with the Metering Philosophy.



- (b) The relevant Meter Owner shall, at its expense:
  - (i) validate said Measuring Equipment; and
  - (ii) calibrate said Measuring Equipment,
 as and when deemed necessary and as may be prescribed in the Metering Philosophy.
- (c) The Distributor may, where necessary, undertake additional checks on the Measuring Equipment owned by the Connected Party.
- (d) When carrying out validation or calibration, as the case may be, on its Measuring Equipment at an Entry Point or an Exit Point where the Distributor is the Meter Owner, the Distributor shall invite the Shippers with Reserved Capacity at the relevant Entry Point or Exit Point and the relevant Connected Party to witness the process. The Distributor shall carry out the validation process on the nominated Day whether or not such persons referred to in this paragraph are present.
- (e) When carrying out validation or calibration, as the case may be, on its Measuring Equipment at an Entry Point or Exit Point where the Connected Party is the Meter Owner, the relevant Connected Party shall invite the Shippers with Reserved Capacity at the relevant Entry Point or Exit Point and the Distributor to witness the process. The Connected Party shall carry out the validation process on the nominated Day whether or not such persons referred to in this paragraph are present.
- (f) In the event there is a dispute on the result of the validation of Measuring Equipment, the disputing party shall notify the Meter Owner within 14 Days from the date of validation. The Meter Owner may instruct an independent expert to verify the validation. If the expert finds the validation to be accurate, then the disputing party shall bear the cost of said validation and the cost of the independent expert. If the expert finds the validation to be inaccurate, then the Meter Owner shall bear the costs of said validation and the cost of the independent expert.

#### 11.5 UPGRADING OF MEASURING EQUIPMENT

In the event there is a need to upgrade the Measuring Equipment at an Entry Point or an Exit Point, the Meter Owner of such Measuring Equipment shall inform Shippers with Reserved Capacity at the relevant Entry Point or Exit Point and the Connected Party at the relevant Entry Point or Exit Point who may be affected, within a reasonable time-frame in advance of the upgrading works.



## 11.6 METERING CAPACITY

Each Shipper must ensure that gas flow at each Entry Point and/or Exit Point is not below the capacity of the relevant Measuring Equipment (being the “Qmin”). If the gas flow at an Entry Point and/or Exit Point is below the Qmin, the gas quantity will be deemed as taken at Qmin and, the Distributor may stop the flow of gas at such Entry Point and/or Exit Point. In the event the Measuring Equipment at an Exit Point registers zero quantity of gas flow at such Exit Point in any Day, the Qmin shall not be applied.

## 11.7 ENERGY CONVERSION

- (a) Where for the purposes of this AA (and in particular in respect of Section 6 and this Section 11) the Distributor is required to calculate the quantity of gas offtaken at an Exit Point in a Day in GJ by reference to a Daily Meter Reading expressed in Sm<sup>3</sup>, the Distributor shall undertake the conversion (from Sm<sup>3</sup> to GJ) in accordance with the following formula:

$$Q_{i,j} = V_{i,j} \times H_i$$

where:

*i* indexes a particular Exit Point

*j* indexes a particular Distribution Network

*Q<sub>i,j</sub>* is the quantity of gas offtaken at such Exit Point *i* in a Distribution Network *j* in such Day (expressed in GJ)

*V<sub>i,j</sub>* is the volume of gas offtaken at such Exit Point *i* in a Distribution Network *j* in such Day (expressed in Sm<sup>3</sup>) in accordance with the Daily Meter Reading

*H<sub>i</sub>* is the Average Distribution Gross Heating Value in Distribution Network *j* (expressed in GJ/Sm<sup>3</sup>)

- (b) The **Average Distribution Gross Heating Value** (if applicable) of a:

- (i) Distribution Network with only one physical Entry Point will be the same as the heating value of the gas injected at such Entry Point in such Day (expressed in GJ/Sm<sup>3</sup>); and
- (ii) Distribution Network with more than one physical Entry Point will be calculated each Day as a volume-weighted average of the heating values at the Entry Points to such Distribution Network in accordance with the following formula:

$$GHV_j = \frac{\sum_{i=1} (H_{i,j} \times V_{i,j})}{\sum_{i=1} V_{i,j}}$$



where:

$i$  is an index covering all Entry Points on such Distribution Network  $j$ ;

$GHV_{i,j}$  is the heating value of the gas injected at such Entry Point  $i$  in such Distribution Network  $j$  in such Day (expressed in GJ/Sm<sup>3</sup>);

$V_{i,j}$  is the volume of gas injected at such Entry Point  $i$  in such Distribution Network  $j$ , in such Day (expressed in Sm<sup>3</sup>) in accordance with the Valid Daily Meter Reading.



## Section 12 - OPERATIONAL FLOW ORDERS

### 12

#### 12.1 OPERATIONAL FLOW ORDERS

- (a) In adverse circumstances, the Distributor may, in its discretion, control a Shipper's gas flow in order to safeguard the reliability, safety and integrity of a Distribution Network by imposing an Operational Flow Order ("OFO") (which may include suspending or reducing a Shipper's right to give Nominations) which Shippers are required to follow.
- (b) The Distributor will issue an OFO when:
  - (i) the safe and reliable conveyance of gas in a Distribution Network is at risk;
  - (ii) the maintenance of safe and reliable pressures in a Distribution Network is at risk;
  - (iii) there exists such other circumstances affecting a Distribution Network that would or are reasonably likely to constitute an Emergency;
  - (iv) the rate of gas being offtaken at an Exit Point by a Shipper exceeds the MHQ expressed in a GDA applicable to that Shipper at such Exit Point and the Distributor believes this may have an adverse impact on its ability to convey gas within such Distribution Network; or
  - (v) a Downstream Connected Facility has been disconnected from a Distribution Network in accordance with the relevant GCM.
- (c) When the Distributor wishes to issue an Operational Flow Order, it must issue a notice (the "OFO Notice") to the relevant Shipper and Connected Party, which shall specify:
  - (i) the time at which such Operational Flow Order commences;
  - (ii) if prior to a Day commencing, adjustments to the Reserved Firm Capacity, MHQ and/or Confirmed Nominations, as the case may be, for such Shipper at a relevant Distribution Network (which, for the avoidance of doubt, shall be factored in when determining Distribution Charges, making Nominations and assessing Unauthorised Capacity Overrun Amounts);
  - (iii) if during a Day, adjustments to the quantity of gas which can continue to be offtaken from a Distribution Network notwithstanding the quantities expressed in the Confirmed Nomination for such Day;
  - (iv) the estimated number of Days affected by such Operational Flow Order; and



- (v) reasonable details of the event or of the existence of circumstances which have resulted in such Operational Flow Order.
- (d) The Distributor shall notify the Commission of any OFO Notice.
- (e) During the applicable period of the Operational Flow Order, the Distributor shall keep the affected Shippers and Connected Parties reasonably informed about the progress of elimination of the conditions which gave rise to the issuance of an Operational Flow Order.
- (f) Shipper(s) must immediately comply with an OFO in accordance with the OFO Notice. Without limiting the Distributor's remedies, if a Shipper(s) fails to comply with an OFO, the Distributor may proceed to physically limit or isolate the Entry Point(s) or Exit Point(s).
- (g) When the conditions resulting in the OFO have ceased, the Distributor will determine the System Restoration Costs arising out of the OFO in accordance with the Code and the OFO Handling Procedures
- (h) If the occurrence of the OFO was caused by the Gross Negligence or Wilful Misconduct of one or more Shippers, the Distributor may recover the System Restoration Costs from such Shippers. Upon the identification of the Shippers at fault, the Distributor shall return the Distribution Charges from the System Restoration Costs identified in paragraph (c) of that defined term to those Shipper(s) who are not at fault who paid the Distribution Charges during the period affected by an OFO.
- (i) If the occurrence of an Operational Flow Order was caused by the Gross Negligence or Wilful Misconduct of the Distributor, the Distributor is not entitled to recover the System Restoration Costs from any Shipper and is required to return any Distribution Charges paid to it by Shippers during the period affected by an OFO.
- (j) If the occurrence of an Operational Flow Order was neither caused by the Gross Negligence or Wilful Misconduct of a Shipper(s) nor the Distributor, the System Restoration Costs shall be borne by the Distributor and such costs shall be recovered through the applicable Distribution Tariff.
- (k) The Distributor shall appoint an independent expert to conduct an investigation to find the circumstances and reasons which led to the issuance of an Operational Flow Order. The Commission may review the outcome of such investigation.

## 12.2 OFO HANDLING PROCEDURES

12.2.1 The Distributor shall publish in the Website the OFO Handling Procedures with will be communicated to each Shipper at the time of signing a GDA. The OFO Handling Procedures shall detail:

- (a) communication and notification protocols during an Operational Flow Order;



- (b) mechanisms established to pre-empt and minimize occurrences of an Operational Flow Order;
- (c) Curtailment principles and methodologies during the Operational Flow Order;
- (d) System Restoration Cost calculation methodology after an Operational Flow Order; and
- (e) System Restoration Cost allocation mechanism.





## Section 13 - INVOICING AND PAYMENT

### 13

#### 13.1 DISTRIBUTION INVOICE

##### 13.1.1 Distribution Invoice

A "**Distribution Invoice**" is an invoice on which:

- (a) Firm Distribution Charges (in accordance with Section 3.10.2);
- (b) Interruptible Distribution Charges (in accordance with Section 3.10.3);
- (c) Authorised Capacity Overrun Charges (in accordance with Section 3.11.2(a));
- (d) adjustments made in respect of invoiced amounts contained in a previous Distribution Invoice; and
- (e) Unauthorised Capacity Overrun Charges (in accordance with Section 3.11.2(b))

are shown.

#### 13.2 INVOICE PAYMENT

##### (a) Submission of Distribution Invoices

The Distributor shall, as soon as reasonably practicable and in any event not later than 7 Days after the end of each Month, submit a Distribution Invoice to each Shipper.

##### (b) Payment Instructions

- (i) Parties shall notify each other, of the account name and number, the name, address and other necessary payment details of the bank account to which payments are to be made under this Section 13, within 14 Days after the effective date of a GDA, or in the event of any change to such details, not less than 30 Days before such change is effective.
- (ii) All payments to be made by a Shipper to the Distributor under Section 13.1.1(a) to (d) shall be made by telegraphic bank transfer into the Distributor's account. Any charges imposed by the bank in respect of the telegraphic bank transfer shall be borne by the relevant Shipper.
- (iii) All payments to be made by a Shipper to the Distributor under Section 13.1.1(e) shall be made by telegraphic bank transfer into the Settlement Fund.



(c) Set-off

- (i) A Shipper shall pay in full all amounts due for payment by such Shipper to the Distributor under this AA and shall not make any set-off or deduction against any amounts.
- (ii) The Distributor may deduct or set-off from any amount due to a Shipper, any amount owed by that Shipper to the Distributor.

(d) Full Settlement of Distribution Invoice

Each Shipper shall settle the full amount of each Distribution Invoice by the final Business Day of the Month during which such Distribution Invoice has been issued. Each Distribution Invoice shall be sent by the Distributor through electronic mail or facsimile during the normal business hours and shall be deemed to have been received by a Shipper on the date of the dispatch of the electronic mail or facsimile.

(e) Payments to be made in Ringgit Malaysia

Payments of any amount payable under a Distribution Invoice or debit note shall be made in Ringgit Malaysia (RM).

### 13.3 INVOICE DISPUTES

(a) Disputes

- (i) If a Shipper wishes to raise disputes of any amount in a Distribution Invoice, such Shipper shall first settle the full amount shown as payable by such Shipper on the due date irrespective of the fact that such Shipper intends to raise a dispute concerning the Distribution Invoice.
- (ii) A Shipper may notify the dispute to the Distributor saying:
  - A) the date and number of the Distribution Invoice;
  - B) the item(s) in the Distribution Invoice to which the dispute relates;
  - C) an explanation of the basis on which the dispute is submitted; and
  - D) the amount of the dispute.
- (iii) Both Parties shall notify any dispute to the other Party within 24 months from the date of receipt of the relevant Distribution Invoice. If no such notifications are made within the said 24 months, then both Parties are deemed to have waived all disputes arising from the said Distribution Invoice



- (iv) If the relevant Parties are unable to resolve the dispute amicably within 30 days, the dispute shall be resolved in accordance with Section 15.8.

(b) Late Payment Penalty for Distribution Invoice

Where any amount payable under a Distribution Invoice is not paid on or before the due date, the payee shall pay interest at the rate of 2.0% above the prevailing Base Rate calculated on the daily basis using simple interest calculation based on 365 days, on the unpaid amount due date until the Day on which payment is made. For the avoidance of doubt, this Section 13 shall not be construed as permitting late payment of any Distribution Invoice.

(c) Failure of Payment

If a Shipper fails to pay the Distribution Invoice within 14 Days after payment is due, the Distributor shall have the right to suspend such Shipper's right to use Services until such Shipper pays such Distribution Invoice, or terminate each GDA with that Shipper in accordance with Section 15.2.

#### 13.4 TAXES

- (a) Each Party shall be responsible for and shall pay its own expense when due and payable all Taxes assessed against it in connection with this AA. All Taxes levied on each Party shall be for the account of the Party and shall not be reimbursed by the other Party.
- (b) Each Party shall protect, indemnify and hold safe and harmless the other Party from any and all claims or liability for Taxes assessed or levied by the Inland Revenue Board of Malaysia ("IRB"), whichever is applicable against such Party or its contractors for or on account of any payment made to or earned by the Party in connection with this AA. Each Party further shall protect, indemnify and hold safe and hold the other Party harmless from all Taxes assessed or levied against or on account of wages, salaries or other benefits paid to or enjoyed by such Party's employees, or employees of its contractors, and all Taxes assessed or levied against, on or for account of any property or equipment of such Party.
- (c) Each Party shall have the right to withhold Taxes from payments due to the other Party under this AA to the extent that such withholding may be required by the IRB or relevant tax authorities, and payment by such Party to the IRB or relevant tax authorities of the amount of money so withheld will relieve the other Party from any further obligation to the other Party with respect to the amount so withheld.
- (d) Each Party shall indemnify the other Party against all claims, demands and causes of action based on any actual Taxes for which such Party is liable or any actual or alleged failures by such Party or its contractors to comply with applicable tax reporting, return, or other



procedural requirement with respect to this AA. The indemnity shall include without limitation all penalties, awards, and judgments; court and arbitration costs; legal fees; and other reasonable expenses associated with such claims, demands, and causes of action.

- (e) Each Party shall give prompt notice to the other Party of all matters pertaining to non-payment, payment under protest or claim for immunity or exemption from any Taxes.
- (f) In the event that a refund opportunity arises with respect to any Tax paid by one Party as a result of the transactions governed by this AA, both parties shall reasonably work together to pursue such refund. If one Party receives a refund or a credit for any tax paid by the other Party with respect to this AA, then the Party receiving the refund or credit agrees to refund to that other Party the full amount of such refund or credit.

### 13.5 SERVICE TAX

- (a) This Section 13.5 shall only apply upon the enactment and implementation date of the Service Tax Act 2018 in Malaysia.
- (b) Where service tax is applicable to any Services, the relevant Shipper shall be responsible for and pay the service tax when invoiced by the Distributor for any taxable Service rendered, provided that the Distributor shall provide such Shipper a copy of a valid Service Tax license issued by the Royal Malaysian Customs Department confirming that the Distributor is licensed under the applicable Service Tax Act 2018 in Malaysia as a taxable person providing taxable Services.
- (c) Service tax amount shall be separately stated in the prices and/or rates, and shall be separately itemized in a Distribution Invoice.
- (d) For avoidance of doubt, "Service Tax" as mentioned above refers to the tax imposed on taxable Services provided by a taxable person in Malaysia effective from 1 September 2018 as set out in the Service Tax Act 2018.



## Section 14 - COMMUNICATIONS AND IT

### 14

#### 14.1 GAS MANAGEMENT SYSTEM

- (a) The Distributor shall secure the establishment and operation of a Gas Management System ("GMS") which provides for an electronic transfer of information between the Distributor and the Shippers.
- (b) The Distributor and the Shippers shall communicate with each other for the purposes of the daily operation and monitoring of each Distribution Network by means of GMS.
- (c) Any information provided by the Distributor via the GMS to any Shipper shall be limited only to such Shipper's portfolio.
- (d) GMS shall enable:
  - (i) the Distributor to receive Nominations from Shippers, publish Confirmed Nominations, collate Meter Readings, publish Shipper Entry Quantities and Shipper Exit Quantities, issue Distribution Invoices, post Scheduled Maintenance Plans and Unscheduled Maintenance Plans and maintain information expressed in GDA; and
  - (ii) Shippers to submit Nominations and Capacity Transfers and receive Confirmed Nominations and Distribution Invoices.

#### 14.2 FAILURE OF GMS

##### 14.2.1 Contingency

The Distributor and all Shippers agree to adopt and (in the event of a GMS Contingency) to implement the relevant GMS Contingency Procedures.

##### 14.2.2 Obligations

- (a) In the event of a GMS Contingency the Distributor shall use its reasonable endeavours to resolve the failure or other event or circumstance giving rise to the GMS Contingency so as to bring about the resumption of the normal operation of GMS as soon as possible.
- (b) Each Shipper shall give the Distributor all reasonable assistance as may be necessary for the purposes of the resumption of the normal operation of GMS.
- (c) In the event of a GMS Contingency, where the GMS Contingency Procedures so provide, a Communication normally required to be given as a GMS Communication may be given by any means provided in the GMS manual.



- (d) Except as provided in the GMS Contingency Procedures, this AA will apply during and will not be affected by a GMS Contingency.

#### 14.3 MANUAL COMMUNICATION ARRANGEMENTS

In view of the unavailability of GMS, until such time as GMS is ready and available (as notified by the Distributor to all Shippers at such time), the following contingency measures will be employed:

- (a) the Distributor shall employ manual systems and co-ordinate the receipt of Nominations, issuance of Confirmed Nomination, collection of Meter Readings and issuance of Distribution Invoices via electronic mail in accordance with Section 15.7; and
- (b) the Distributor shall maintain the GDAs in physical format.



## Section 15 - GENERAL

### 15

#### 15.1 CREDIT REGIME

##### 15.1.1 Security for Distribution Charge

(a) The Shipper shall furnish to the Distributor at its own cost and expense an irrevocable, unconditional and on demand bank guarantee, issued by a bank operating in Malaysia and approved by the Distributor, in favour of the Distributor. The said bank guarantee shall be furnished to the Distributor:

- (i) not later than seven (7) Days prior to the earliest Start Date of a Shipper's GDAs and which shall be valid for a period until the date which is ninety (90) days after the latest Reservation Period of such Shipper's GDAs ("**Principal BG Period**") subject to renewal or replacement on an annual basis ("**Principal Bank Guarantee**"); and
- (ii) for any additional Reserved Capacity subsequent to the issuance of the Principal Bank Guarantee, the Shipper shall issue an additional Bank Guarantee on the same terms and conditions of the Principal Bank Guarantee for each additional Reserved Capacity ("**Additional Bank Guarantee**") which shall be valid for a period which corresponds with the Principal BG Period,

(the Principal Bank Guarantee and the Additional Bank Guarantee shall hereinafter be collectively referred to as the "**Bank Guarantee**").

15.1.2 The amount of the Bank Guarantee shall be not less than the amount calculated based on the following:

(a) For Reserved Firm Capacity

Bank Guarantee [RM] = Reserved Firm Capacity [GJ/day] x Distribution Tariff x 90; and

(b) For Reserved Interruptible Capacity

Bank Guarantee [RM] = Reserved Interruptible Capacity [GJ/day] x Distribution Tariff x [Interruptible Factor] x 30

(the "**Distribution Charge Security Requirement**").

15.1.3 The Bank Guarantee shall constitute a form of security for the due performance and observance by the relevant Shipper of its obligations under its GDAs and this AA this and shall not be deemed



to be payment of any Distribution Invoices in advance or as payment in advance for any purpose whatsoever.

- 15.1.4 Each Shipper shall at all times without demand ensure that the full amount of the Bank Guarantee is maintained and increased proportionately in the event of the Bank Guarantee (or any part of it) being applied pursuant to Clause 15.1.5 and 15.1.6.
- 15.1.5 Each Bank Guarantee shall be retained by the Distributor until the termination of the GDAs subject to the Bank Guarantee (or any part of it) being applied from time to time by the Distributor (in its absolute discretion) in or towards making good any default or breach of such GDAs or this AA by the Shipper including but not limited to any payment due under the Distribution Invoices and other payments which may arise under such GDAs or this AA.
- 15.1.6 In the event the Bank Guarantee is liquidated for whatsoever reason, the Bank Guarantee shall be utilised to pay the Distributor for all amounts due to it from the relevant Shipper under the relevant GDAs and this AA. Each Shipper shall within seven (7) Days from the date of notification from the Distributor that the Bank Guarantee or part of it has been applied towards paying the outstanding amount furnish to the Distributor a new bank guarantee on the same terms and nature as such Bank Guarantee.
- 15.1.7 The Bank Guarantee must be valid during the Reservation Period plus ninety (90) Days and be renewed at least thirty (30) days prior to its expiry and be updated to reflect any increases to a Shipper's Distribution Charge Security Requirement at least seven (7) Days prior to such increase.

## 15.2 TERMINATION

### 15.2.1 Termination by either Party

#### (a) If a Party to a GDA:

- (i) is declared insolvent, wound up or is declared in a similar legal status affecting the rights of creditors generally or suspends payments of its debts generally or is unable to pay its debts as and when they fall due;
- (ii) has a receiver, manager, liquidator or similar officer appointed over such Party or over all or a substantial part of such Party's assets or an order is made or a resolution is passed for the winding-up, liquidation and/or dissolution of such Party;
- (iii) has committed any material breach (other than as expressed in Section 15.2.2) of this GDA which has not been remedied within thirty (30) Days of notice being given of such material breach by the non-defaulting Party,





the other Party shall be entitled, without judicial intervention to:

- A) terminate such GDA; or
- B) suspend such GDA for a period not exceeding 60 Days to permit the Party in default to remedy such default, failing which such GDA shall immediately be terminated.

- (b) Either Party to a GDA may terminate such GDA if the Distributor has been unable to provide, or a Shipper has been unable to receive, Services due to the continuation of an event of Force Majeure for at least three (3) months.

#### 15.2.2 Termination by the Distributor

If a Shipper:

- (a) fails to fulfil its payment obligations under its GDA(s) in accordance within this AA;
- (b) fails to comply with the security requirements applicable to such Shipper in Section 15.1;  
or
- (c) has its shipping licence suspended or revoked,

(a **"Shipper Default"**), the Distributor may issue to such Shipper a notice of intention to terminate, and suspend the provision of Services, under such GDA(s). Such Shipper shall be given a period of fourteen (14) Days to remedy the default, failing which the Distributor may terminate such GDA(s).

#### 15.2.3 Termination by a Shipper

A Shipper may terminate its GDA(s) with the Distributor in the event the Distributor has its distribution licence suspended or revoked.

#### 15.2.4 Notification

A Party shall notify the other Party, if that Party exercises its right to terminate a GDA. Monies that may be owed from the moment of termination of a GDA shall be immediately due and payable and bear interest at 2% above the prevailing Base Rate, calculated on a daily basis using simple interest calculation based on 365 days, in case of late payment.

#### 15.2.5 Survival

- (a) The termination of a GDA will be without prejudice to any rights, obligations, and remedies arising out of or concerning such GDA that have vested, matured, or accrued to any party before the date of the termination.



- (b) The provisions of this Section 15.2.4 and Sections 15.2.5, 15.3, 15.4, 15.8 and 15.9 will remain in effect until all rights, obligations, and remedies have been finally extinguished, and all disputes, including any financial audits carried out under such GDA, have been finally resolved.

#### 15.2.6 Termination Sum

If a GDA is terminated prior to the end of its Reservation Period by the Distributor in accordance with Section 15.2.2, the Shipper shall, within five (5) Days of the date of termination, pay the Termination Sum to the Distributor.

### 15.3 CONFIDENTIALITY

#### 15.3.1 Contents of Confidential Information

The content of the Confidential Information obtained under this AA by the Receiving Party from the Disclosing Party is strictly confidential. The Receiving Party cannot disclose the said Confidential Information for a period of 5 Year after the expiry or termination of a GDA, without prior written consent of the Disclosing Party.

#### 15.3.2 Permitted Disclosures

The requirement at Section 15.3.1 does not apply to any Confidential Information which:

- (a) at, or after, the time of disclosure becomes part of the public domain (other than by reason of a breach of this AA or a GDA by the Receiving Party);
- (b) is known by the Receiving Party at the time it obtains the Confidential Information (save where the information is known by the Receiving Party as a result of it having previously been disclosed by the Disclosing Party to it);
- (c) is lawfully acquired by the Receiving Party from a third party otherwise than in breach of an obligation of confidentiality;
- (d) a Receiving Party is required to disclose in order to comply with the requirements of any Government Body;
- (e) a Receiving Party needs to disclose to employees, officers, and directors of the Receiving Party to enable the Receiving Party to perform its obligations under this AA;
- (f) a Receiving Party needs to disclose to employees, officers, and directors of an Affiliate of the Receiving Party to enable the Receiving Party and/or such Affiliate to perform its obligations under this AA;



- (g) a Receiving Party needs to disclose to any consultant, agent, or legal counsel retained by the Receiving Party or its Affiliate to enable the Receiving Party to perform its obligations under this AA;
- (h) a Receiving Party needs to disclose to any bona fide prospective transferee of a Receiving Party's rights and obligations under this AA (including a prospective transferee with whom a Receiving Party and/or its Affiliates are conducting bona fide negotiations directed toward a merger, consolidation, or the sale of a majority of its or an Affiliate's shares) and any consultant retained by the prospective transferee to enable the prospective transferee to assess the Receiving Party's rights and obligations; or
- (i) a Receiving Party needs to disclose to any bank or other financial institution or entity funding or proposing to finance the Receiving Party and/or an Affiliate, including any consultant retained by the bank or other financial institution or entity.

#### 15.4 LIABILITY

##### 15.4.1 Liability

As between the Distributor and a Shipper remedies against such other Party for non-performance or breach of this AA or a GDA or for any other claim of any nature arising out of or concerning this AA shall be in contract, and no such Party shall be liable to the other Party, its Affiliates, and contractors and their respective directors, officers, employees, and agents respecting any damages, losses, or claims for any alleged breach of statutory duty, tortious act, or omission.

##### 15.4.2 Limitation of Liability

- (a) Neither the Distributor nor a Shipper shall be liable to such other Party for loss arising from any breach of this AA or a GDA except for loss directly resulting from such breach and which at the relevant date was reasonably foreseeable as likely to occur in the ordinary course of events from such breach.
- (b) Each Shipper shall be responsible for and shall protect, defend, indemnify and hold the Distributor harmless against any claims or losses in relation to injury or death of such Shipper's employees including its contractors and sub-contractors in connection with this AA.
- (c) The Distributor shall be responsible for and shall protect, defend, indemnify and hold each Shipper harmless against any claims or losses in relation to injury or death of such Distributor's employees including its contractors and sub-contractors in connection with this AA.



- (d) Neither the Distributor nor a Shipper shall in any circumstances be liable in respect of a breach of this AA or a GDA to such other Party for:
  - (i) any loss of revenue, loss of production, loss of profit, loss of reputation, loss of contract, loss of opportunity, loss of anticipated savings, loss of use, loss of goodwill, or increased cost of working and wasted effort or expenditure;
  - (ii) any indirect or consequential loss; or
  - (iii) except as provided in paragraphs (a) above and (g) below, loss resulting from the liability of the other Party to any other person howsoever and whensoever arising.
- (e) The liability of the Distributor to Shippers pursuant to this AA in respect of any claim or a series of related claims howsoever arising from this AA shall not exceed in any Year:
  - (i) in the case of the liability of the Distributor to any one Shipper, the amount equal to the Distribution Charge applicable to that Shipper multiplied by the number of Days during which such occurrence or series occurrences occurred; and
  - (ii) in the case of the liability of the Distributor to all Shippers, an aggregate amount of Ringgit Malaysia Three Million (RM3,000,000),

however caused (including, but not limited to, by any Gross Negligence or Wilful Misconduct of the Distributor).
- (f) The provisions of this Section 15.4 are without prejudice to any provision of this AA which provides for an indemnity or which provides for the payment obligations of any Party under this AA.
- (g) Nothing in this AA shall exclude or limit the liability of any Party for death or personal injury resulting from any material breach of this AA or a GDA or the negligence of such Party.

#### 15.4.3 Exclusion of certain rights and remedies

- (a) The rights and remedies set out in this AA are intended to be the exhaustive rights and remedies of the Distributor and Shipper with respect to this AA and the GDAs and the provisions of this Section 15.4 insofar as it relates to limitations of liability and nature of loss shall apply to all liabilities and claims of any kind, whether as a result of a breach of any contractual obligation, representation or warranty, negligence, nuisance, breach of statutory duty, strict liability or otherwise howsoever arising on the part of each such person.
- (b) Without prejudice to this Section 15.4, where any provisions of this AA or a GDA provides for any amount to be payable by the Distributor to a Shipper upon or in respect of the



Distributor's breach of any provision of this AA or a GDA, each Shipper agrees and acknowledges that, except in the case of the Distributor's Gross Negligence or Wilful Misconduct, the remedy conferred by such provision shall be in substitution of any remedy in damages in respect of such breach or the event or circumstance giving rise thereto.

- (c) For avoidance of doubt, nothing in this Section 15.4 shall prevent the Distributor or a Shipper from or restrict it in enforcing any obligation (including suing for a debt) owed to it under or pursuant to this AA or a GDA.

#### 15.4.4 Mitigation of Loss

The Distributor or a Shipper shall use reasonable endeavours to mitigate the loss and damage (if any) incurred by it as a result of breach by such other person of its obligations under this AA or a GDA.

#### 15.4.5 Liquidated damages

When any provision of this AA or a GDA provides for any amount to be payable by the Distributor or a Shipper upon or in respect of that person's breach of any provision of this AA or a GDA, the Distributor or a Shipper agrees and acknowledges that such provision has been the subject of discussion and negotiation, and that the amount provided to be payable represents no more than a genuine pre-estimate of the loss of the person to which such amount is payable.

#### 15.4.6 Liability between the Distributor and Connected Parties

The liability regime between:

- (a) the Distributor and the Transporter shall be set out in the Gas Connection Manual between those entities; and
- (b) the Distributor and a Connected Party shall be set out in the Gas Connection Manual between those entities.

### 15.5 FORCE MAJEURE

#### 15.5.1 Definition of Force Majeure

- (a) For the purposes of this AA and each GDA, subject to paragraph 15.5.1(b), "**Force Majeure**" means any event or circumstance, or any combination of events and/or circumstances, which is not reasonably foreseeable or, if reasonably foreseeable is beyond the reasonable control of a Party ("**Affected Party**") and which, by the exercise of due diligence, the Affected Party has been unable to prevent or overcome and which causes or results in the failure of the Affected Party to perform any of its obligations owed to any other Party or Parties (each an "**Other Parties**") under this AA or a GDA including,

without limitation the following events to the extent that they fall within the general description set out above:

- (i) fire, haze, explosion and acts of God including tsunami, flood, lightning, storm, typhoon, hurricane, tornado, cyclone, earthquake, landslide, perils at sea, soil erosion, subsidence, washout or epidemic; or
  - (ii) war (whether declared or undeclared), civil war, act of terrorism, piracy, riot, civil disturbance, blockade, insurrection, embargo, trade sanctions, military uprising or act of public enemy; or
  - (iii) strike, lock out or industrial disturbance, provided that any strike, lock out or industrial disturbance that affects the Distributor or the Distributor's subcontractors only, will not be considered an event of Force Majeure; or
  - (iv) changes in Applicable Laws that directly affect any of the Parties and/ or render unlawful performance of any of the Parties' obligations hereunder; or
  - (v) inability of the Distributor to accept delivery of gas due to the inability of any Offtaker to take gas if such Offtaker's inability is occasioned by an event or occurrence of the character described or envisaged in this provision as constituting an event of Force Majeure; or
  - (vi) acts of any Government Body, including any exercise of the Commission's authority under section 38 of the Act; or
  - (vii) any other causes whether of the kind herein enumerated or otherwise and whether caused or occasioned by or happening on account of the act or omission of one of the parties which affects receipt or delivery of the gas at an Entry Point and/or an Exit Point.
- (b) The following events shall not be treated as Force Majeure:
- (i) changes in market conditions, including changes which directly or indirectly affect the demand for or price of gas, including the demand for, or price of, the transportation services of that gas or any commodity used in the pricing thereof or the ability to make a profit or to receive a satisfactory rate of return for the transportation of gas;
  - (ii) inability or failure to pay amounts when due;
  - (iii) the imposition of sanctions by any Government Body due solely to the failure of the Party in question to comply with any law or regulation;



- (iv) the withdrawal or expiration, or failure to obtain, any necessary consent, confirmation, authorisation or other approval of any Government Body which the Party acting as a Reasonable and Prudent Operator, can apply for and obtain, maintain or extend or could have applied for and obtained, maintained or extended;
- (v) the breakdown, failure or non-operation of plant or machinery:
  - A) caused by normal wear and tear;
  - B) caused by the non-availability of standby equipment or spare parts which could have been avoided by acting in accordance with the standard of a Reasonable and Prudent Operator;
  - C) which has been caused by an equipment or component failure which does not cause direct, actual and demonstrable damage to the fitness and purpose of such machinery (beyond the failure of the equipment or component itself); or
  - D) which has been caused by a design or manufacturing defect which is patent, known or foreseeable. For the purposes of this Section 15.5.1(b)(v)(D), a defect shall be regarded as "foreseeable" if the Affected Party has been notified of such defect in relation to the affected machinery by the equipment manufacturer or vendor or by another owner or operator of similar such machinery or has actual knowledge of such defect or the symptoms thereof, all prior to entering into a contract for the purchase of such machinery;
- (vi) the inability to obtain or maintain permits or licences, pipeline rights of way, easements or their equivalent from a Government Body;
- (vii) any event or circumstance comprising, or resulting from, any Gross Negligence or Wilful Misconduct by the Affected Party (in the performance of this AA or a GDA or otherwise);
- (viii) an event to the extent it only affects an Offtaker;
- (ix) any event which otherwise would be considered a Force Majeure under this AA or a GDA but which is the result of any breach or infringement of, or non-compliance with any contract, agreement, covenant, undertaking, promise, law, decree, circular, regulation, decision, directives, enactment, licence, approval, consent, permission, exemption or other obligation whatsoever by the Affected Party; and
- (x) the inability to obtain financing, or financing on commercially acceptable terms, for the construction and/or operation of a Party's facilities.





#### 15.5.2 Effect of Force Majeure

- (a) Subject to paragraph (b) below, the Affected Party shall be relieved from liability (including any requirement under this AA or a GDA to make payment of any sum or to take any other action) for any delay or failure in the performance of any obligation under this AA or a GDA which is caused by or results from Force Majeure.
- (b) The Affected Party shall be relieved from liability under paragraph (a) above only for so long as and to the extent that the occurrence of Force Majeure and/or the effects of such occurrence could not be overcome by measures which the Affected Party might reasonably be expected to take with a view to resuming performance of its obligations under this AA or a GDA.
- (c) A Shipper shall only be relieved of their obligations to pay Distribution Charges to the extent the Force Majeure prevents the Distributor from undertaking the Services.
- (d) If an Affected Party is relieved of the performance of any of its obligations under this AA or a GDA by virtue of Force Majeure, then any Party may by written notice to the Party terminate such GDA if that relief continues for at least three (3) consecutive Months and is continuing.

#### 15.5.3 Information

Following any occurrence of Force Majeure, the Affected Party shall:

- (a) as soon as reasonably practicable notify each Other Party who may be affected by the occurrence of Force Majeure giving full particulars of the occurrence and nature of the Force Majeure, the expected duration thereof (insofar as the same can reasonably be assessed) and the obligations of the Affected Party performance of which is affected thereby; and
- (b) from time to time thereafter provide to each Other Party reasonable details of:
  - (i) developments in the matters notified under paragraph (a) above; and
  - (ii) the steps being taken by the Affected Party to overcome the Force Majeure occurrence or its effect and to resume performance of its relevant obligations.

#### 15.5.4 Remedy

Following any occurrence of Force Majeure, the Affected Party shall make all reasonable efforts to remedy such inability to perform its obligations under this AA or a GDA(s) with all reasonable dispatch, provided however, that at the discretion of the Affected Party, such remedy shall not





require the settlement of strikes or lockouts by accession to the demands of any persons where such demands affect the Affected Party.

## 15.6 INSURANCE

### 15.6.1 Insurance

- (a) The Distributor and each Shipper must effect and maintain relevant insurance policies, which may include:
  - (i) general third party insurance with a limit per occurrence or series of occurrences arising from one event of an amount to be determined in accordance with the standards of a Reasonable and Prudent Operator;
  - (ii) insurance of not less than the greater of that amount required by applicable workmen's compensation or employer's liability legislation from time to time per occurrence or series of occurrences arising from any one event; and
  - (iii) a cross liability section which provides that where the insurance policy covers the interest of more than one party, any act, negligence or omission or breach of a policy condition by an individual party will not prejudice the rights of the remaining party/parties; provided the remaining party/parties must, upon becoming aware of any act, negligence or omission as a result of which the risk of legal liability to that party/parties has increased due to a breach of a policy condition, give notice to the insurers.
- (b) Each Party must ensure that its respective insurers include in their insurance policies a waiver of the subrogation rights of its insurer in respect of the matters indemnified in this Section 15 for the benefit of the other Party except in the case of the Gross Negligence or Wilful Misconduct of the Distributor or a Shipper (as appropriate) and each Shipper must provide evidence of this to the Distributor on request.

## 15.7 NOTICES AND COMMUNICATIONS

### 15.7.1 General

- (a) This AA contemplates that Communications may be given by the following means:
  - (i) GMS, in accordance with Section 14; or
  - (ii) delivery or post or facsimile or electronic email or (in certain cases) telephone in accordance with paragraphs (b) and (c) below,

subject to and in accordance with the provisions of this AA.



- (b) For the purposes of this AA, a "**Conventional Notice**" is a notice or communication which is or may be given by any of the means in Section 15.7.2.
- (c) Subject to Section 14, and except where the means by which a Communication is to be given is specified in this AA, the particular means (in accordance with paragraph (a) above) by which each Communication is to be given is set out in the GMS manual provided that where in any case such means is not so specified, such Communication shall be given as a Conventional Notice.
- (d) Any reference in this AA to the time or date of any Communication, or the giving or making of a Communication, is a reference to the time or date when (in accordance with this paragraph or Section 14 or the GMS manual) the Communication is deemed to have been received by the Party to which it was sent.
- (e) Subject to paragraph (f) below, a Communication which is given after 24:00 hours on a Day, or such other time as may be specified in the GMS manual in respect of such Communication, may be deemed to have been received on the following Day.
- (f) Paragraph (e) does not apply in respect of:
  - (i) a Nomination or a Capacity Transfer Application;
  - (ii) a Communication to be made in accordance with Section 12 during an Operational Flow Order; or
  - (iii) any other Communication to be made by GMS or by telephone or by facsimile where the context requires that such Communication be treated as received within the Day on which it is given.
- (g) Where any provision of this AA specifies any requirement to be complied with by any Party in respect of any specific Communication, such requirement shall be in addition to and (to the extent inconsistent) in substitution for the provisions of this Section 15.7.1.

15.7.2 Notices by delivery, post, facsimile and electronic mail:

- (a) References in this Section 15.7.2 to a notice are to any Communication or other notice or Communication to be given by one Party to another under a GDA, other than one which is given as a GMS Communication or by telephone.
- (b) Any notice shall be in writing and shall be addressed to the recipient Party at the recipient Party's address or, facsimile number or electronic mail address referred to in paragraph (c) below, and marked for the attention of the representative (identified by name or title) referred to in that paragraph, or to such other address or, facsimile number or electronic



mail address and/or marked for such other attention as the recipient may from time to time specify by notice in accordance with this Section 15.7.2 to the Party giving the notice.

- (c) The initial address, or facsimile number and electronic mail address of a Party, and representative for whose attention notices are to be marked, shall be as specified by a Shipper and the Distributor in a GDA.
- (d) Any notice given by delivery shall be given by letter delivered by hand, and any notice given by post shall be sent by either prepaid registered post or ordinary post (airmail if overseas).
- (e) Any notice shall be deemed to have been received:
  - (i) in the case of delivery by hand, when delivered;
  - (ii) in the case of post, forty-eight (48) hours after posting or (if sent airmail overseas or from overseas) on the fifth (5th) Day following the Day of posting and in proving the same, it shall be sufficient to show the envelope was addressed, stamped and posted;
  - (iii) in the case of facsimile, instantaneously, and in proving the same, it shall be sufficient to show that a successful transmission receipt has been retained; or
  - (iv) in the case of electronic mail, upon receipt in readable form.
- (f) Where a notice is sent by facsimile or electronic mail:
  - (i) the Party giving the notice shall (but without prejudice to paragraph (e)(iii) above), if requested by the recipient Party, resend as soon as reasonably practicable the notice by facsimile or electronic mail; and
  - (ii) in the case of a Termination Notice, the Distributor will in any event, within five (5) Days following the sending of such facsimile or electronic mail, send to the recipient Party a copy of the notice by prepaid registered post (and by airmail if overseas).
- (g) A Party may specify different addresses, facsimile numbers or electronic mail addresses and representatives pursuant to paragraph (b) above for the purposes of notices of different kinds or relating to different matters.

#### 15.7.3 Communication by telephone

- (a) For the purposes of enabling Communications to be given (where required or permitted to be so given) by telephone:



- (i) the Distributor shall provide to each Shipper and each Shipper shall provide to the Distributor not more than four (4) telephone numbers (or such other number as they may agree) and details (by name or title) of the representative to whom the Party giving such a Communication should speak;
- (ii) each Party shall use reasonable endeavours to ensure that a Party seeking to give such Communication will at any time be able to contact a representative (of the first Party) by means of one of such telephone numbers; and
- (iii) the Distributor and each Shipper shall, if either of them shall so request, establish such further procedures as may be reasonable and appropriate for the purposes of ensuring:
  - A) that a Communication being given by telephone may be identified by the recipient as such; and/or
  - B) that such communications may be given securely, without delay and effectively.
- (b) Where a Party seeking to give a Communication by telephone is unable to contact a representative of the receiving Party, such Party must give the Communication by facsimile and the Communication will not be deemed to have been given except in accordance with Section 15.7.2(e)(iii).
- (c) Unless otherwise agreed between the relevant Parties a telephone notice may not be given as a message recorded on a telephone answering device.
- (d) Where a Communication is given by telephone:
  - (i) the Distributor will promptly after the telephone communication is completed make and keep a record in which the time and content of the telephone notice is logged, but may do so by recording the telephone communication where it has notified the Shipper (on the occasion or on a standing basis) of its intention to do so; and
  - (ii) the Communication shall be treated as given at the time at which the telephone communication is completed.
- (e) A Party may specify different telephone numbers and representatives pursuant to paragraph (a) above for the purposes of receiving by telephone Communications of different kinds or relating to different matters.



## 15.8 DISPUTE RESOLUTION

### 15.8.1 Introduction

- (a) For the purposes of this Section 15.8:
  - (i) a **"Dispute"** is any dispute, controversy or claim arising out of or in connection with this AA or a GDA including, but not limited to, any question in respect of their existence, validity or termination, between the Distributor and any Shipper or Shippers which the Parties have been unable to resolve amongst themselves; and
  - (ii) in respect of any Dispute, **"Disputing Parties"** means the Distributor and the Shipper or a party to such dispute, and **"Disputing Party"** shall be construed accordingly.
- (b) A management representative of each Disputing Party shall endeavour to resolve any Dispute amicably, but if such Dispute cannot be amicably resolved within 30 days of a Dispute arising, any Disputing Party shall refer such Dispute to the Commission. The Commission's determination shall be final and binding on the Disputing Parties and shall be enforceable by a court of competent jurisdiction on the same basis as an obligation between private parties. In the event the Commission informs the Disputing Parties that it is unable or unwilling to resolve a Dispute or fails to make a determination in respect of a Dispute within 60 days of such Dispute being referred to it, any Disputing Party may deal with, or refer, such Dispute in accordance with the remainder of this Section 15.8.

### 15.8.2 Expert determination

Unless the Disputing Parties otherwise agree, where the Dispute relates to:

- (a) the quality of gas either injected into, or offtaken from, a Distribution Network;
- (b) the calibration of meters in a Distribution Network;
- (c) the quantity of gas either injected into, or offtaken from, a Distribution Network; or
- (d) any other technical area where the Disputing Parties are of the opinion that the Dispute will be more suitably resolved by means of Expert Determination, rather than by means of arbitration in accordance with Section 15.8.12,

the Dispute shall be determined in accordance with Sections 15.8.4 to 15.8.11 (inclusive) (**"Expert Determination"**) and subject to Section 15.8.3, no Disputing Party shall commence proceedings in any court in respect of or otherwise in connection with such Dispute.



15.8.3 Interlocutory relief

Nothing in this Section 15.8 shall prevent any Disputing Party from seeking interim or interlocutory relief in any court.

15.8.4 Expert Determination

- (a) A Dispute which is to be referred to or resolved by Expert Determination shall be determined by an individual appointed as expert in accordance with Sections 15.8.5 and 15.8.6.
- (b) No person shall be nominated as a proposed expert under Sections 15.8.5 or 15.8.6 unless that person has the requisite qualifications to resolve a dispute referable under this AA to Expert Determination by virtue of his education, experience and training.

15.8.5 Initial notice and selection of expert

- (a) Any Disputing Party to a Dispute which is to be resolved by or referred to Expert Determination may give notice of the Dispute in accordance with paragraph (b) below.
- (b) The notice shall be given to each other Disputing Party and shall provide brief details of the issues to be resolved ("**Dispute Notice**").
- (c) The Disputing Parties shall endeavour, within fourteen (14) Days after the Dispute Notice was given, to agree upon the selection of an expert, and may meet for this purpose.
- (d) If within fourteen (14) Days after the Dispute Notice was given the Disputing Parties shall not have agreed upon the selection of an expert, any Disputing Party may inform the Director of the Asian International Arbitration Centre ("**AIAC**") in writing of such Dispute, giving details of the nature and complexity of such Dispute, and thereby request him/her to appoint a single expert for the determination of such Dispute within twenty-one (21) Days from the date of the Dispute Notice, upon which request the Director of AIAC shall, after taking such independent advice as it may deem necessary select an expert for the purpose of determining such Dispute.

15.8.6 Appointment of the Expert

- (a) Upon the selection under Section 15.8.5 or paragraph (c) below of an expert, the Disputing Parties shall forthwith notify the expert selected of his selection and request him to confirm within fourteen (14) Days whether or not he is willing and able to accept the appointment.
- (b) The notification to the expert shall include the following:
  - (i) the names of the Disputing Parties and a summary of the Dispute;



- (ii) a request that the expert will enter into a confidentiality undertaking as required by Section 15.8.10 and provide the confirmation required under Section 15.8.9;
  - (iii) a request for confirmation of the expert's scale of fees;
  - (iv) a statement that the expert's fees and expenses will be paid as provided in Section 15.8.11;
  - (v) a statement that the information disclosed in the notification is confidential and that it should not be disclosed, copied or revealed whether the appointment is accepted or not;
  - (vi) a copy of this Section 15.8;
  - (vii) a request for confirmation that the expert is able and willing to act in accordance with the procedure set out herein; and
  - (viii) a request for confirmation that the expert is not a present employee, officer or agent, or consultant to, any of the Disputing Parties.
- (c) If the selected expert is unwilling or unable to accept the appointment, or has not entered into a confidentiality undertaking as required by Section 15.8.2, or shall not have confirmed his willingness and ability to accept such appointment within the period required under paragraph (a) above, or the amount of his remuneration or terms of his appointment are not agreed within the period required under paragraph (d) below, then (unless the Disputing Parties are able to agree upon the appointment of another expert) the matter shall be referred (by any Disputing Party) to the Director of AIAC pursuant to Section 15.8.5(d) and the process shall be repeated until the provisions in this paragraph (c) have been met.
- (d) The Disputing Parties shall use their reasonable endeavours to ensure that the terms of the contract of appointment of the expert are agreed with such person within ten (10) Days following his confirmation of ability and willingness to act, and agree that if the Parties are unable to agree with the expert the amount of his remuneration or any other terms of his appointment then:
- (i) if one or more of the Disputing Parties is willing to agree what the expert proposes, such amount or terms shall be determined by the Commission whose decision shall be final and binding on the Disputing Parties to the dispute and whose costs of such reference shall be borne by the Disputing Parties equally; and





- (ii) if none of the Disputing Parties is willing to agree what the expert proposes, or the expert is not willing to agree what is determined pursuant to paragraph (d)(i) above, another expert shall be selected in accordance with paragraph (c) above.
- (e) The expert shall be an independent contractor and the relationship of the Disputing Parties and the expert shall in no event be construed to be that of principal and agent or master and servant.
- (f) The expert shall not be a present employee, officer or agent, or consultant or counsel to, any of the Disputing Parties.

#### 15.8.7 Timetable and Procedure

- (a) The expert shall, as soon as practicable after the confirmation of his appointment, by giving reasonable notice to each Disputing Party convene a meeting with the Disputing Parties at which he shall raise any matters upon which he requires clarification and, if necessary, define the Dispute and give directions as to the future conduct and procedural requirements of the Dispute.
- (b) The expert may, from time to time, give such procedural directions in connection with the Dispute as he sees fit.
- (c) The Disputing Parties shall, not later than fourteen (14) Days after the appointment of the expert, submit to the expert and to each other Disputing Party written submissions together with all supporting documentation, information and data which they wish to submit in respect of the Dispute; and the Disputing Parties may also submit to the expert a statement of facts which has been agreed among the Disputing Parties.
- (d) Each Disputing Party may, not later than twenty eight (28) Days after the appointment of the expert, submit to the expert and each other Disputing Party written submissions together with any additional supporting documentation, information and data, in reply to the submissions made under paragraph (c) above.
- (e) The expert shall disregard any documentation, information, data or submissions supplied or made by any party later than twenty eight (28) Days after his appointment unless the same are provided in response to a request from the expert.
- (f) If the expert shall wish to obtain independent professional, including legal advice and/or technical advice and/or secretarial assistance in connection with the Dispute:
  - (i) he shall first provide the Disputing Parties with details of the name, organisation and estimated fees of the professional, technical adviser, or secretarial assistance, as the case may be; and





- (ii) he may engage such adviser or assistant with the consent of the Disputing Parties (which consent shall not be unreasonably withheld) for the purposes of obtaining such professional, technical advice and/or secretarial assistance as he may reasonably require.
- (g) Any communications between the Disputing Parties and the expert shall be made or confirmed in writing and a copy of such communications shall be provided simultaneously to the other Disputing Parties.
- (h) At any time after the period referred to in paragraph (d) above expires, with the written consent of the Disputing Parties, the expert may (but shall not be required to) convene a hearing upon giving the Disputing Parties reasonable notice.
- (i) The expert shall submit his final determination, which shall be a report in writing giving reasons for his determination of the Dispute, to the Disputing Parties not later than forty five (45) Days following his appointment or such other time as agreed by the Disputing Parties in writing.
- (j) If the expert fails to submit the final determination within a reasonable period, but in any event not later than sixty (60) Days from the date of his appointment, another expert may be appointed in accordance with the provisions of this Section 15.9 and the appointment of the previous expert shall cease unless before the appointment of the new expert, the previous expert shall have submitted his final determination hereunder, in which case the new expert shall be forthwith informed that his services will not be required.
- (k) If the expert becomes unwilling or unable to act, or does not act, in the matter in respect of which he is appointed, then the Disputing Parties or, failing which, the Commission shall select and appoint an expert in accordance with the procedures set out in this Section 15.8.
- (l) Any meetings held in connection with the Dispute shall be held in Kuala Lumpur, Malaysia and shall only take place if all Disputing Parties have been given reasonable notice that such meeting is to take place.

**15.8.8 Effect of determination**

- (a) The expert's final determination shall (unless given after the appointment of another expert under Section 15.8.7(j)) be final and binding on the Disputing Parties except in the event of fraud or manifest error or failure by the expert to disclose any relevant interest pursuant to Section 15.8.9 in which case another expert may be appointed in accordance with the provisions of this Section 15.8.



- (b) The expert's final determination shall be enforceable by a court of competent jurisdiction on the same basis as obligations between private parties.
- (c) Except as provided in paragraph (a) above, no Disputing Party shall commence proceedings in respect of or refer to any court any finding by the expert, whether made at any time after his appointment or in his determination, as to the Dispute or the construction of or otherwise in respect of this AA or a GDA.

#### 15.8.9 Conflict of interests

- (a) The expert shall confirm to the Disputing Parties before his appointment that he does not hold any interest or duty which would or potentially would conflict with the performance of his duties under his contract with the Disputing Parties or else disclose fully to the Disputing Parties any such conflict or potential conflict.
- (b) If after his appointment, the expert becomes aware of any interest or duty which conflicts or potentially conflicts with the performance of his duties under his contract with the Disputing Parties, the expert shall inform the Disputing Parties forthwith of such conflict giving full details thereof.
- (c) Any Disputing Party may within five (5) Days of the disclosure of any such conflict or potential conflict object to the appointment or continued appointment of an expert, in which case the expert shall not be or shall cease to be appointed and a new expert shall be selected and appointed in accordance with this Section 15.8.

#### 15.8.10 Confidentiality

- (a) The Disputing Parties and the expert shall keep the fact that the Expert Determination is taking place and its outcome confidential.
- (b) The expert shall enter into a confidentiality undertaking on such terms the Disputing Parties may require and shall cause any professional or technical advisers and any secretarial assistants to enter into confidential undertakings in the same terms.

#### 15.8.11 Costs

- (a) Each Disputing Party shall bear its own costs including without limitation costs of providing documentation, information, data, submissions or comments under this Section 15.8 and all costs and expenses of all witnesses and other persons retained by it provided that where any Dispute is determined in favour of the Distributor such costs shall be payable by the Shipper involved in the Dispute.
- (b) The expert shall provide the Disputing Parties with a breakdown of:



- (i) his fees; and
  - (ii) his reasonable expenses, including the fees of and reasonable expenses incurred by any technical or professional advisers or any secretarial assistance engaged pursuant to Section 15.8.7(f).
- (c) The expert's fees and expenses under paragraph (b) above shall be payable by the Disputing Parties in equal amounts, unless the expert (having regard to the conduct of the Disputing Parties with respect to the Dispute in question) shall direct in his final determination that such costs and expenses should be borne by one or some only of the Disputing Parties, in which case the Disputing Parties shall pay such fees and expenses in accordance with such direction.
- (d) If the terms of the expert's appointment provide for the payment of his fees and expenses before the delivery of the final determination, the Disputing Parties shall pay such fees and expenses in equal amounts, and shall make adjustment payments inter se following any such direction as is referred to in paragraph (c) above.
- (e) The expert shall not be held liable for any act or omission unless it shall be shown that the expert has acted negligently, fraudulently or in bad faith.

#### 15.8.12 Arbitration

- (a) Where there is a Dispute to which Section 15.8.2 does not apply, any Disputing Party shall refer the Dispute to be finally resolved by arbitration in accordance the Rules of AIAC for the time being in force which rules are deemed to be incorporated by reference into this paragraph except where such Rules conflict with this Section 15.8.12, in which event the provisions in this Section 15.8.12 shall prevail to the extent of such conflict.
- (b) Each arbitration shall be conducted in Kuala Lumpur, Malaysia.
- (c) The Disputing Parties agree to exclude the application of Part III of the Arbitration Act 2005.
- (d) The law governing the procedure of the arbitration shall be the laws of Malaysia and the language of the arbitration shall be English.
- (e) The number of arbitrators shall be three (3). One (1) arbitrator shall be nominated by the Shipper, and one (1) arbitrator shall be nominated by the Distributor. The two (2) persons so nominated shall within fourteen (14) days of the appointment of the second of them, nominate a third arbitrator who shall act as the presiding arbitrator of the tribunal. If no such nomination is made within the time limit, then the appointing authority of the AIAC shall select and appoint the presiding arbitrator of the tribunal.



- (f) Sections 15.8.6(f) and 15.8.9 shall apply, mutatis mutandis, in relation to the appointment of the arbitrator save that references to the 'expert' therein shall be replaced with references to the 'arbitrator'.
- (g) The award or order made by the arbitrator shall be final and binding on the Disputing Parties except in the event of fraud or manifest error or failure by the arbitrator to disclose any relevant interest pursuant to Section 15.8.9 in which case another arbitrator may be appointed in accordance with paragraph (d) above.
- (h) Except as provided in paragraph (f) above, no Disputing Party shall commence proceedings in respect of or refer to any court any finding by the arbitrator, whether made at any time after his appointment or in his award or order, as to the Dispute or the construction of or otherwise in respect of this AA or a GDA.
- (i) Subject to paragraph (v) below, the Parties agree as follows:
  - (i) where a Related Dispute arises which raises substantially the same or connected factual and/or legal issues as a Dispute under a GDA (whether or not arbitration of the Related Dispute has already been commenced) (the "**Common Disputes**"), then on request, the AIAC can appoint the same tribunal in respect of the Common Disputes (the "**Common Tribunal**"). Where arbitrators have already been appointed to determine any of the Common Disputes, the tribunal first appointed will constitute the Common Tribunal. The Parties will ensure that the appointment of any other arbitrator is terminated immediately. The termination is without prejudice to:
    - A) the validity of any act done or order made by that arbitrator or by the court in support of that arbitration before his appointment is terminated;
    - B) his entitlement to be paid his proper fees and disbursements; and
    - C) the date when any claim or defence was raised for the purpose of applying any limitation bar or any similar rule or provision.
  - (ii) If it considers it to be in the interests of justice and efficiency, the Common Tribunal can order the Common Disputes to be consolidated (a "**Consolidation Order**"). On making a Consolidation Order, the Common Tribunal will have exclusive jurisdiction to resolve the Common Disputes.
  - (iii) If a Consolidation Order is made, the Parties to each of the proceedings that are the subject of the order will be treated as having consented to the consolidated proceedings. The Consolidation Order and the award of the Common Tribunal will be final and binding.



- (iv) Each Party agrees:
  - A) that the arbitral tribunal has power to join any Party that is not party to the arbitration to the proceedings (an "**Additional Party**") and each Party consents to such joinder;
  - B) that it may be joined as an Additional Party to any arbitration commenced under another GDA entered into by the Distributor in relation to a Distribution Network; and
  - C) not to unreasonably object to the joinder or otherwise obstruct any attempt to join an Additional Party.
- (v) The AIAC and arbitral tribunal may only exercise the powers in this Section 15.8.12(i) if all parties to the relevant arbitral proceedings (including in relation to paragraph (iv) above, any Additional Party) have been given a reasonable opportunity to make representations to the AIAC or arbitral tribunal in relation to the exercise of such powers.
- (vi) If more than two parties are involved in any arbitral proceedings, the arbitral tribunal shall have all powers necessary to establish any supplementary procedural rules required or desirable in view of the multiparty nature of the arbitral proceedings. Such powers shall include the ability to issue one or more arbitration awards during or at the conclusion of the arbitration as considered necessary or appropriate or expedient by the arbitral tribunal.

## 15.9 GENERAL

### 15.9.1 Assignment

- (a) Subject to paragraph (d) below, a Party may assign its rights under this AA or a GDA:
  - (i) to an Affiliate of such Party, provided that the assigning Party shall continue to be bound by and liable under this AA or a GDA; or
  - (ii) with the prior agreement in writing of each relevant other Party, which shall not unreasonably be withheld, to any person.
- (b) For the purposes of this Section 15.9.1, a relevant other Party is:
  - (i) where the assigning Party is the Distributor, each other Shipper; or
  - (ii) where the assigning Party is a Shipper, the Distributor.



- (c) Except as provided in paragraph (a) above, a Party shall not assign or transfer and shall not purport to assign or transfer any of its rights or obligations under this AA or a GDA.
- (d) No assignment shall be made to a person unless:
  - (i) such person enters into an agreement with each relevant other Party covenanting to be bound by this AA; and
  - (ii) where the assigning Party is the Distributor, that person holds a distribution licence under Section 11B(i)(a) of the Act; or
  - (iii) where the assigning Party is a Shipper, that person is a Shipper.
- (e) A reference in this AA or a GDA to any Party shall include a reference to that Party's successors and permitted assigns.

#### 15.9.2 Waiver

- (a) No delay by or omission of any Party in exercising any right, power, privilege or remedy under this AA or a GDA shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof.
- (b) Any single or partial exercise of any such right, privilege or remedy shall not preclude any other or future exercise thereof or the exercise of any other right, power, privilege or remedy.

#### 15.9.3 Implied Warranties

- (a) To the full extent permitted by Applicable Law, except as expressly stated in a GDA, no other representation or warranty is given by the Distributor, whether written or oral, express or implied, including any representation or warranty of merchantability, conformity to samples, or fitness for any particular purpose.
- (b) All terms and conditions relating to a GDA that are implied by Applicable Law or custom are excluded to the full extent permitted by Applicable Law.

#### 15.9.4 Language

Every Communication, and every notice or other communication to be given by one Party to another under this AA or a GDA shall be in the English language.

#### 15.9.5 Severance

If any provision of this AA or a GDA is or becomes invalid, unenforceable or illegal, or is declared to be invalid, unenforceable or illegal by any court of competent jurisdiction or by order or directive





of any other Government Body, such invalidity, unenforceability or illegality shall not prejudice or affect the remaining provisions of this AA or a GDA which shall continue in full force and effect notwithstanding the same.

15.9.6 Entire Agreement

- (a) This AA and each GDA made between the Parties contain or expressly refer to the entire agreement between the Parties with respect to the subject matter thereof, and supersede all previous agreements or understandings between the Parties with respect thereto; and any warranty, condition or other term implied at law or by custom is (to the fullest extent permitted by law) expressly excluded therefrom.
- (b) Each Party acknowledges that in entering into a GDA, it does not rely on any representation, warranty or other understanding not expressly contained in this AA or such GDA.
- (c) Nothing contained in a document (other than a GDA) referred to in this AA, beyond what is expressly contemplated by this AA as being contained in such document or is necessary for the purposes of giving effect to a provision of this AA, shall modify or have any effect for the purposes of this AA or be construed as relevant to the interpretation of this AA.

15.9.7 Disclaimer of Agency

- (a) It is not the intention of the Parties to create, nor shall a GDA be deemed or construed to create, nor shall the Parties report for any purpose any transaction occurring pursuant to the GDA as a partnership, joint venture or other association or a trust.
- (b) The GDAs shall not be deemed or construed to authorise any Party to act as an agent, servant or employee for the other Party for any purpose whatsoever except as explicitly set forth in a GDA. In their relations with each other under a GDA, the Parties shall not be considered fiduciaries.

15.9.8 Jurisdiction

- (a) Subject and without prejudice to the provisions of Section 15.8.2 as to Expert Determination and Section 15.8.12 as to dispute resolution by way of arbitration, all the Parties irrevocably agree that the courts of Malaysia are to have exclusive jurisdiction to settle any disputes which may arise out of or in connection with this AA or a GDA and that accordingly any suit, action or proceeding (collectively "**Proceedings**") arising out of or in connection with this AA and each GDA may be brought in such courts.
- (b) Each Party irrevocably waives any objection which it may have now or hereafter to the laying of the venue of any Proceedings in the courts of Malaysia and any claim that any



such proceedings have been brought in an inconvenient forum and further irrevocably agrees that a judgment in any proceedings brought in the Malaysian courts shall be conclusive and binding upon such Party and may be enforced in the courts of any other jurisdiction.

15.9.9 Governing Law

This AA and each GDA shall be governed by, and construed in all respects in accordance with Malaysian law.

15.9.10 Sovereign Immunity

- (a) The Parties recognise and acknowledge that a GDA is intended to constitute a commercial transaction and accordingly each Party acknowledges and agrees that it is not entitled to, and hereby irrevocably waives any right to, plead sovereign immunity for any purpose whatsoever, including, but not limited to, any right to plead sovereign immunity in respect of any action:
  - (i) to refer a matter to an expert, or to arbitration, pursuant to the terms of such GDA; or
  - (ii) in respect of the jurisdiction of the expert or arbitral tribunal; or
  - (iii) to enforce or execute any award or determination rendered by an arbitral tribunal or any expert pursuant to the terms of such GDA.
- (b) The Parties irrevocably waive any claim to sovereign immunity in relation to any court proceedings arising out of or in connection with a GDA, including for the purposes of enforcing any award or determination rendered by an arbitral tribunal or any expert pursuant to the terms of such GDA.
- (c) To the extent that:
  - (i) either Party may be entitled in any jurisdiction to claim for itself or its assets sovereign immunity in respect of its obligations under a GDA; or
  - (ii) in any jurisdiction there may be attributed to itself or its assets such sovereign immunity,

each of the Parties agrees not to claim and hereby irrevocably waives such sovereign immunity to the fullest extent permitted by the laws of such jurisdiction.





## 15.10 CHANGE IN LAW

If there is a Change in Law after the Effective Date which:

- (a) makes it impossible for a Party to fulfil all or part of its obligations under a GDA or this AA;
- (b) has a material adverse effect on the ability of a Party to fulfil any of its obligations under a GDA or this AA; or
- (c) makes all or any part of a GDA or this AA unenforceable,

then upon the written request of any Party, the Parties shall promptly meet and discuss and, acting in good faith, agree upon any amendments that may be required to the terms of such GDA or this AA in order to take into account the Change in Law such that each Party can continue to comply with the terms of such GDA and this AA.

In the event the Parties unable to reach agreement, the Distributor may amend such GDA and this AA in any manner it deems fit in order to comply with such Change in Law with the approval of the Commission.

## 15.11 REVISIONS TO THIS AA

### 15.11.1 Distributor's role

The Distributor shall be entitled to propose amendments or modifications to this AA (the **"Proposed AA Change"**):

- (a) on its own accord; or
- (b) as a result of any directions from the Commission; or
- (c) as a result of any change requests (the **"AA Change Request"**) received from the Shippers (either individually or collectively) in accordance with the procedure set out below in Section 15.11.2.

### 15.11.2 Change request procedure

- (a) The Shipper(s) may submit the AA Change Request to the Distributor no later than six (6) months before the Proposed AA Change is scheduled to take place.
- (b) The AA Change Request must include sufficient details on the changes being proposed by the Shipper(s), including a rationale and justification (as well as any relevant supporting documentation) for such changes.



- (c) Upon receipt of an AA Change Request, the Distributor shall analyse and evaluate the AA Change Request, and may reasonably request any additional information and/or clarification from the Shipper(s).
- (d) Provided that the Distributor is satisfied that the proposed changes contained therein are not inconsistent with the Code (and any other relevant codes developed and issued under the Act), the Distributor shall publish the AA Change Request with the Proposed AA Changes which the Distributor considers necessary to effect such AA Change Request for consultation in accordance with Section 15.11.3.

#### 15.11.3 Consultation

The Distributor shall publish the Proposed AA Changes (and relevant AA Change Request, if applicable) on the Website. The Distributor shall consult with the Shipper(s) on the Proposed AA Changes for ninety (90) days thereafter.

#### 15.11.4 Commission approval

Within thirty (30) days after the end of the consultation period in Section 15.11.3, the Distributor shall forward the Proposed AA Changes (including any modifications arising from the consultation process) to the Commission for prior approval.

Within fourteen (14) days of the Commission's approval of the Proposed AA Changes (as modified, if necessary), the Distributor shall publish the updated AA on the Website and notify each of the Shippers.



**Schedule 1**  
**Form of Bank Guarantee**

Date:

To:

From:

Gas Malaysia Distribution Sdn Bhd

.....Bank Berhad

No. 5, Jalan Serendah 26/17

Add:

Seksyen 26, Peti Surat 7901

40732 Shah Alam

Tel:

Selangor Darul Ehsan

Fax:

Malaysia

Our Ref No.:

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Dear Sirs,

**BANK GUARANTEE**

**WHEREAS**

- (a) Gas Distribution Agreement(s) dated ..... (GDA(s)) made between (1) Gas Malaysia Distribution Sdn Bhd ('Distributor') and (2) ..... ('Shipper') the Distributor has agreed to convey natural gas on behalf of the Shipper upon the terms and conditions contained in the GDA(s).
- (b) The terms of the GDA(s) oblige the Shipper to provide a Bank Guarantee to the Distributor.

In consideration of your accepting our obligations herein contained in discharge of the Shipper's obligations to provide such guarantee we, ..... (insert name of bank) hereby irrevocably and unconditionally agree to pay to you the maximum aggregate sum of Malaysian Ringgit ..... (insert amount in words) only (hereinafter called the 'Guarantee Sum') on first demand, free of offsets or counterclaims, without restrictions or conditions and notwithstanding any contestation or objection and accordingly covenant with you and agree as follows:-

- 1 Upon receipt of a written demand made by you upon us at our address at ..... (insert add), Malaysia, from time to time or at any time and without the need for you to take legal action against or to obtain the consent of the Shipper, notwithstanding and regardless of any objection by the Shipper and without any further proof or conditions and without any right of set-off or counterclaim, we shall forthwith and no later three (3) working days from the date of the written demand pay to you the amount or amounts specified in such demand or demands, not exceeding



in aggregate the Guaranteed Sum. Such payment or payments shall be made by transfer to an account in your name at such bank in such place as you shall direct.

- 2 Our obligation hereunder shall not be affected by act, omissions, matter or thing which but for this provision might operate to release or otherwise exonerate us from our obligations hereunder in whole or in part, including without limitation and whether or not known to us or you:
- (a) Any time or waiver granted to the Shipper or any other person;
  - (b) The taking, variation, compromise, renewal or release of or refusal or neglect to perfect or enforce any rights, remedies or securities against the Shipper or any other person;
  - (c) Any unenforceability, invalidity or frustration of any obligations of the Shipper or any person under the GDA(s) or any other document or security;
  - (d) Any legal limitation, disability or incapacity relating to the Shipper or any other person.
- 3 The validity period of this guarantee shall be from ..... (insert date) to ..... (insert date) and shall remain in effect throughout the validity period with a further extension of up to ninety (90) days after the expiry date. We shall have no liability in respect to any claims made by you under this guarantee which are received by us after the expiry of this guarantee, whether or not this guarantee is returned to us for cancellation.
- 4 This guarantee cannot be assigned without our written consent.
- 5 This guarantee shall be governed by and construed in accordance with the Laws of Malaysia and we hereby agree to submit to the exclusive jurisdiction of the Courts of Malaysia over any claim arising out of this guarantee.

In witness whereof this guarantee has been executed on the ..... (insert date) Yours faithfully

Authorised Signature

..... ( insert name of bank)



**Schedule 2**  
**Gas Specification**

Gross Heating Value	35.1 – 48.1 MJ/Sm <sup>3</sup>
Specific Gravity	< 0.75
Hydrocarbon Dew Point	10 degree Celsius @ 56 Barg
Water Dew Point	10 degree Celsius @ 56 Barg
Hydrogen Sulphide	< 5.7 mg/m <sup>3</sup>
Total Sulphur	< 30mg/m <sup>3</sup> at City Gate Stations; and < 34mg/m <sup>3</sup> at any other part of a Distribution Network
Inert Gas	< 10 % mole

