|  |
| --- |
| Interconnection Agreement for Receipt Points |

First Gas Limited (First Gas)

[ ] (the Interconnected Party)

December 2017

**TABLE OF CONTENTS**

[1 parties’ rights and obligations 3](#_Toc501708712)

[2 Technical Compliance 3](#_Toc501708713)

[3 injection of gas 5](#_Toc501708714)

[4 metering and energy quantity reports 6](#_Toc501708715)

[5 energy allocation at A receipt point 10](#_Toc501708725)

[6 gas quality 11](#_Toc501708727)

[7 odorisation 14](#_Toc501708728)

[8 health and safety 16](#_Toc501708729)

[9 Curtailment 17](#_Toc501708730)

[10 prudential 19](#_Toc501708731)

[11 fees and charges 21](#_Toc501708732)

[12 invoicing and payment 24](#_Toc501708734)

[13 ACCESS RIGHTS 25](#_Toc501708735)

[14 term and TERMINATION 27](#_Toc501708736)

[15 FORCE MAJEURE 29](#_Toc501708737)

[16 LIABILITIES 31](#_Toc501708739)

[17 regulatory change 35](#_Toc501708740)

[18 disputes 35](#_Toc501708741)

[19 general AND LEGAL 36](#_Toc501708742)

[20 definitions and construction 39](#_Toc501708743)

[schedule one: Receipt Point details 46](#_Toc501708744)

[schedule two: technical requirements 47](#_Toc501708745)

[SCHEDULE three: amending agreement 50](#_Toc501708746)

**PARTIES:**

**First Gas Limited** (*First Gas*)

**[ ] Limited** (*the Interconnected Party*)

**BACKGROUND:**

1. First Gas owns and operates the Transmission System.
2. As at the date of this Agreement, the Interconnected Party is injecting Gas into First Gas’ Pipeline at the existing Receipt Points.
3. The Parties have agreed to enter into this Agreement to set out the terms on which the Interconnected Party may continue to connect to, and inject Gas into First Gas’ Pipeline at the existing Receipt Points, and at Additional Receipt Points in future.

**AGREEMENT:**

# parties’ rights and obligations

* 1. First Gas will permit connection of the Interconnected Party’s Pipeline First Gas’ Pipeline at a Receipt Point, on and subject to the terms and conditions set out in this Agreement.
  2. Each Party will act as a Reasonable and Prudent Operator when exercising any of its rights, powers, obligations and duties under this Agreement.
  3. Subject to the terms of this Agreement and the Code*,* First Gas has absolute discretion as to how it conducts the operation of the Transmission System.

# Technical Compliance

## General

* 1. Except as agreed otherwise in writing, the Interconnected Party will ensure that all Receipt Points and Additional Receipt Points comply with Schedules One and Two.
  2. The Interconnected Party will provide First Gas with a copy of its maintenance records for any Receipt Point on request (but not more than once per year).

## Additional Receipt Point

* 1. The Interconnected Party may request an Additional Receipt Point at any time during the term of this Agreement. The Parties must execute an Amending Agreement in respect of that Additional Receipt Point before First Gas will commence any work in relation to it.
  2. In relation to any Additional Receipt Point, the Interconnected Party shall:
     1. consult with First Gas to ensure that the design of that Additional Receipt Point meets its reasonable requirements;
     2. consider and respond to all reasonable comments or queries from First Gas in relation to compliance with Schedule Two;
     3. be responsible for obtaining all necessary consents and approvals required; and
     4. unless otherwise agreed with First Gas, design, construct, operate and maintain that Additional Receipt Point.
  3. In relation to any Additional Receipt Point, First Gas shall:
     1. use commercially reasonable endeavours to obtain the land and/or property rights it requires in order to connect that Receipt Point to its Pipeline;
     2. carry out a full risk assessment in accordance with *paragraph 1.1* of Schedule Two, including in relation to:
        1. the means of installing any new connection to its Pipeline;
        2. the need for (notwithstanding section 6) and means to prevent solid or liquid contaminants from reaching its Pipeline;
        3. the need for and means to prevent over-pressurisation of its Pipeline; and
        4. the possibility of, and means to mitigate excess Gas flow into its Pipeline;
     3. submit the risk assessment referred to in *section 2.5(b)* for review by the certifying authority for its Pipeline and:
        1. resolve any concerns that person may have; and
        2. obtain a modified certificate of compliance for its Pipeline including the Additional Receipt Point;
     4. obtain any necessary consents and approvals required in relation to work on its Pipeline;
     5. design, construct, operate and maintain any new connection to its Pipeline and any other new facilities forming part of its Pipeline; and
     6. determine whether Odorisation Facilities are required and, if so, whether it will build, own, operate and maintain them.
  4. The Interconnected Party will on request provide First Gas with a producer statement and/or a certificate of electrical inspection confirming that a Receipt Point is designed, constructed, operated and maintained in compliance with all applicable laws and, on request First Gas will provide the Interconnected Party with the same in respect of any any First Gas Equipment.

## Interconnected Party’s Pipeline

* 1. The Interconnected Party shall ensure that its Pipeline is designed, constructed, operated and maintained in compliance with all applicable laws and will not connect or continue to connect its Pipeline to, or inject Gas at a Receipt Point unless it is safe to do so.

## Gas-on Date

* 1. In respect of any Receipt Point in operation on the Commencement Date, the Gas-on Date shall be the Commencement Date.
  2. In respect of an Additional Receipt Point, the Interconnected Party shall not inject Gas until First Gas has notified it in writing that the following conditions have been satisfied:
     1. commissioning is complete;
     2. Odorisation Facilities (if required) have been installed and commissioned;
     3. the Remote Monitoring Equipment is fully operational;
     4. the Interconnected Party has demonstrated to First Gas in accordance with *section 6.6* that it will inject only gas that complies with the Gas Specification;
     5. First Gas has received all monies payable (if any) by the Interconnected Party (except where otherwise agreed in writing); and
     6. any adjustment to the Credit Support required by First Gas has been made; and

provided that the Interconnected Party may inject limited quantities of Gas when, and to the extent approved by First Gas, to facilitate commissioning.

# injection of gas

## Injection Pressure

* 1. The Interconnected Party acknowledges and agrees that:
     1. it is solely responsible for achieving the pressure required to inject Gas at any Receipt Point, up to the MAOP of First Gas’ Pipeline;
     2. apart from the provisions of the Code relating to the Target Taranaki Pressure, First Gas shall not be obliged to operate its Pipeline within any particular pressure range to facilitate the injection of Gas at any Receipt Point; and
     3. it shall not cause the MAOP of First Gas’ Pipeline to be exceeded, and shall indemnify First Gas for any Loss First Gas may suffer if it does so.

## Rate of Injection

* 1. Subject to *section 3.3*, the Interconnected Party will use reasonable endeavours to inject Gas at a Receipt Point at a constant rate. For the purposes of this *section 3.2*, “constant rate” means an average Hourly energy quantity equivalent to 1/24th of the most recent quantity of Gas the Interconnected Party has agreed with Shippers to inject on that Day, whether under a Gas Transfer Agreement or an OBA.
  2. *Section 3.2* will not apply where an Agreed Injection Profile is in effect.

## Excessive Flow

* 1. The Interconnected Party agrees that it will not inject Gas at a Receipt Point at a rate greater than the then-current Maximum Design Flow Rate and, if it does so, it shall be liable for:
     1. the cost of any damage to any First Gas Equipment or First Gas’ Pipeline;
     2. the charge determined in accordance with *section 11.11*; and
     3. any Loss pursuant to *section 11.12*.

## Low Flow

* 1. If Gas is injected at a Receipt Point at rates less than the then-current Minimum Design Flow Rate to the extent that, in First Gas’ reasonable opinion, the Accuracy of the metered quantities at that Receipt Point is unduly affected, First Gas shall notify the Interconnected Party accordingly. Unless the Interconnected Party can reasonably demonstrate to First Gas that those low Gas injection rates were extraordinary occurrences and are unlikely to occur again, or that the Metering is Accurate even at those low injection rates, First Gas may require the Interconnected Party at its cost to modify the Metering to improve the Accuracy of metered quantities at low flow rates, and:
     1. the Interconnected Party shall then implement appropriate modifications as soon as practicable; and
     2. during the time required to modify the Metering, First Gas’ shall be entitled to suspend the Interconnected Party’s right to inject Gas at that Receipt Point.

# metering and energy quantity reports

## Metering Required

* 1. The Metering Owner shall install Metering as set out in Schedule One and use reasonable endeavours to ensure that it operates at all times.

## Direct Gas Measurement Only

* 1. Metering shall determine Gas quantities by direct measurement only and not by difference or by other indirect means.

## Testing of Metering and Provision of Information

* 1. The Metering Owner shall use reasonable endeavours, including by means of periodic testing in accordance with the Metering Requirements, to ensure that Metering is Accurate. The other Party may request, and the Metering Owner shall then provide:
     1. reasonable technical information relating to the Metering at a Receipt Point;
     2. a copy of its planned maintenance schedules relating to any Metering; and
     3. the results of any testing of any Metering.
  2. In relation to any new Metering, the Metering Owner shall:
     1. no earlier than 3 Months before that Metering is placed into service, test each custody transfer meter and other gas measurement device forming part of that Metering; and
     2. where the Metering includes a verification meter, conduct an in-situ verification test of each custody transfer meter as soon as practicable after that Metering is placed into service,

to ensure that the Metering is Accurate. If the Metering is found to be Inaccurate, the Metering Owner will service, repair, re-calibrate or replace it, then re-test it to establish that it is Accurate. The Metering Owner will provide the other Party with written evidence of testing pursuant to this *section 4.4*.

## Unscheduled Testing of Metering

* 1. The Party who is not the Metering Owner (the *Requesting Party*) may request the Metering Owner to carry out an unscheduled test of any Metering. The Metering Owner shall comply with that request, provided that it shall not be obliged to undertake such testing within 1 Month of its own scheduled testing or more frequently than once every 9 Months. The Metering Owner will allow the Requesting Party’s representative to be present during any unscheduled testing, and provide the Requesting Party with the test results. Where the Metering is found to be:
     1. Accurate, the Requesting Party will reimburse the Metering Owner for all direct costs it incurs in undertaking the unscheduled testing; or
     2. Inaccurate, the Metering Owner shall:
        1. bear all costs it incurred in undertaking the unscheduled testing (but not any costs incurred by the Requesting Party or any other party); and
        2. at its cost and as soon as practicable, service, repair, recalibrate or replace the Metering (or relevant part thereof) to make it Accurate.

## Corrections for Inaccurate Metering

* 1. Where any Metering is found to be Inaccurate, Gas quantities previously measured by, or determined using data from that Metering shall be corrected in accordance with the Metering Requirements. If the Party who is not the Metering Owner installs its own check metering at a Receipt Point, it shall:
     1. promptly provide data from that check metering to the Metering Owner on request; and
     2. retain all data from that check metering for a period of not less than 3 years.

## Amendment of Metering Requirements

* 1. First Gas may amend the Metering Requirements at any time but such amended Metering Requirements shall apply to then-existing Metering only if both Parties agree in writing, such agreement not to be unreasonably withheld or delayed.

## Access to Data

* 1. The Metering Owner shall, subject to *sections 4.9* to *4.12*, make available to the other Party at a Receipt Point any of the following data (*Data*) that other Party may request:
     1. for each meter stream that forms part of the Metering:
        1. uncorrected volume flow rate at flowing conditions;
        2. corrected volume flow rate;
        3. mass flow rate;
        4. energy flow rate;
        5. accumulating (totalising) uncorrected volume;
        6. accumulating (totalising) corrected volume;
        7. accumulating (totalising) mass;
        8. accumulating (totalising) energy;
        9. the pressure and temperature at the meter;
        10. density at flowing conditions;
     2. in respect of Gas injected at that Receipt Point:
        1. Specific Gravity or Relative Density;
        2. Base Density;
        3. Gross Calorific Value;
        4. Nett Calorific Value;
        5. the concentration (in mole %) of Nitrogen, Carbon Dioxide and all hydrocarbon constituents of the Gas individually (including of each such constituent’s isomers that are present in the Gas in other than trace amounts) up to and including Pentanes;
        6. the concentration (in mole %) of all hydrocarbon constituents in the Gas with a molecular weight greater than that of Pentane, either collectively as Hexanes-plus or individually as total Hexanes, total Heptanes, total Octanes and Nonanes-plus, where the capabilities of the gas analyser for the Metering permits; and
        7. Gas quality information including hydrocarbon dewpoint and water content to the extent available,

provided that the Metering Owner shall not be obliged to provide any Data that is not required for the purposes of this Agreement.

* 1. Pursuant to *section 4.8*, the Metering Owner shall:
     1. reasonably determine the source from which any Data is obtained; and
     2. at its cost make the Data available at reasonably located termination points in a non-Hazardous area, in the manner and in accordance with such frequency, communications protocol and format (including units of measurement) as it may reasonably determine.
  2. The recipient of Data pursuant to *section 4.8* shall be responsible for conveying that Data to any other location at its cost.
  3. The Metering Owner shall use reasonable endeavours to maintain the availability of Data, including while the Metering is undergoing repair, re-calibration, testing, servicing or replacement. The Interconnected Party shall not be relieved of any of its obligations under this Agreement due to the unavailability of any Data, for any reason.
  4. Subject to *section 4.13*, if the Metering Owner upgrades or replacing the Metering at a Receipt Point and is no longer be able to provide any of the Data previously received by the other Party, it shall not be obliged to reimburse any costs incurred by that Party in order to receive that Data.

## Energy Quantity Reports

* 1. For each Receipt Point, First Gas shall, in accordance with the Code produce daily delivery reports *(DDRs)* and hourly delivery reports *(HDRs)* for each meter at that Receipt Point and for the Receipt Point in aggregate, and the Metering Owner shall make available to First Gas (in accordance with *section 4.9* or otherwise) such of the Data as First Gas shall notify it that it requires for that purpose.

## OATIS Access

* 1. First Gas will provide the Interconnected Party with access to OATIS:
     1. to enable the Interconnected Party to view and/or download DDRs and/or HDRs; and
     2. as required for any other purpose relating to this Agreement,

provided that the Interconnected Party shall be responsible at its cost for ensuring it can access OATIS and will do so on the terms and conditions of access to, and use of OATIS set out on OATIS.

# energy allocation at A receipt point

## Gas Transfer Agreement

* 1. Subject to *section 5.2*, a Shipper’s Receipt Quantity at a Receipt Point will be the quantity determined by the Gas Transfer Agent pursuant to the relevant Gas Transfer Agreement.

## Operational Balancing Agreement

* 1. The Interconnected Party may determine that an Operational Balancing Agreement (*OBA*) will apply at any Receipt Point, provided that it must give First Gas and all Shippers receiving Gas at that Receipt Point not less than 40 Business Days’ notice in writing before the OBA may commence. At the commencement of the OBA the Interconnected Party shall become an OBA Party in respect of that Receipt Point, and shall comply with all provisions of this Agreement and the Code that apply to an OBA Party.
  2. The Interconnected Party may terminate an OBA at a Receipt Point on the expiry of not less than 40 Business Days’ notice in writing to First Gas and all Shippers receiving Gas at that Receipt Point, provided that all those Shippers must sign a Gas Transfer Agreement before the OBA terminates.

## Agreed Injection Profile

* 1. If in relation to a Receipt Point and a Day the Interconnected Party:
     1. plans to, or is undertaking scheduled maintenance or other work; or
     2. experiences an unplanned Gas production outage,

that will reduce its ability to inject Gas in accordance with *section 3.2* on that Day, but nevertheless reasonably expects that in other periods of that Day it will be able to inject the quantities of Gas requested by Shippers (albeit in contravention of *section 3.2*) it may request an Agreed Injection Profile (*AIP*) at that, or another, Receipt Point as a means of avoiding having to curtail Shippers’ Receipt Quantities.

* 1. The Interconnected party must use the relevant functionality provided on OATIS to request an AIP and may do so in any nominations cycle.
  2. An AIP can only be requested in advance. An AIP may be for part of a Day and/or a full Day (or Days) up to a maximum of 7 Days. An AIP must commence at a time corresponding to the start of a nominations cycle. Any AIP that starts on a Day must include all Hours from the time it starts until the end of that Day.
  3. No AIP may reduce the amount of Gas injected on a Day below the metered quantity of Gas already injected at that Receipt Point on a Day.
  4. First Gas will approve any requested AIP except where that would:
     1. require it to curtail any Shipper’s:
        1. request, in the same nominations cycle, for DNC; and/or
        2. previously approved DNC or Supplementary Capacity;
     2. exceed the Physical MHQ of the relevant Receipt Point; or
     3. unduly increase the risk of breaching an Acceptable Line Pack Limit.
  5. First Gas may curtail any previously approved AIP where it determines that is necessary to avoid breaching an Acceptable Line Pack Limit or having to curtail DNC or Supplementary Capacity.
  6. The Interconnected Party may cancel a previously approved AIP only via OATIS, provided that it may not, on a Day, cancel an AIP that starts on that Day in respect of that Day. The Interconnected Party may, on any Day, cancel a previously approved AIP in respect of all subsequent Days to which it applies.
  7. Where it is an OBA Party, an AIP shall not relieve the Interconnected Party of its obligations to:
     1. manage Shippers’ Nominated Quantities in accordance with the Code; and
     2. comply with its Primary Balancing Obligation.

# gas quality

* 1. The Interconnected Party shall at its cost monitor, in accordance with *section 6.10*, the quality of all gas it injects at a Receipt Point. Nothing in this Agreement requires First Gas to monitor the quality of gas injected by the Interconnected Party at any Receipt Point.
  2. The Interconnected Party shall not knowingly inject Non-Specification Gas (except for the shortest practicable time necessary to terminate its injection of gas after becoming aware that it has been injecting Non-Specification Gas).

## Non-Specification Gas

* 1. First Gas shall promptly notify the Interconnected Party if it detects or reasonably suspects that Non-Specification Gas has been injected or is being injected.
  2. On becoming aware that it has injected or is injecting Non-Specification Gas (including pursuant to *section 6.3*), the Interconnected Party shall immediately halt further injection of gas until it has investigated the matter.
  3. Where it finds that it did inject, or was injecting Non-Specification Gas, the Interconnected Party shall:
     1. notify First Gas as soon as practicable, together with the following information:
        1. the reason why Non-Specification Gas was injected;
        2. the likely time during which Non-Specification Gas was injected and the estimated quantities of Non-Specification Gas injected; and
        3. the extent to which, in terms of the gas characteristics and components referred to in *section 6.10*, the gas it injected was Non-Specification Gas;
     2. assist First Gas to the maximum extent practicable to mitigate the effects of any Non-Specification Gas injected; and
     3. remedy the cause of the injection of Non-Specification Gas before injecting any further gas at that Receipt Point, and take all practicable steps to prevent further injection of Non-Specification Gas.

## Demonstration of Gas Quality

* 1. Upon First Gas’ written request at any time, the Interconnected Party shall promptly demonstrate to First Gas that it has sufficient facilities, monitoring and procedures in place to ensure that all gas it injects at a Receipt Point complies with the Gas Specification.
  2. If the Interconnected Party fails to comply with *section 6.6* within a reasonable time, First Gas may:
     1. require the Interconnected Party to immediately cease injecting gas until it does comply with *section 6.6*; and/or
     2. subject to the relevant provisions of *section 13*, enter that Receipt Point, or any facility owned or operated by the Interconnected Party that is a source of gas injected at that Receipt Point, at any reasonable time to undertake such reasonable inspections, inquiries, sampling or testing of gas to determine the Interconnected Party’s compliance with *section 6.6*.
  3. The Interconnected Party shall pay all First Gas’ reasonable costs incurred in exercising its rights under *section 6.7(b)*.
  4. First Gas shall have no liability to the Interconnected Party, and the Interconnected Party shall not be relieved of its obligations under this Agreement, by reason only that First Gas exercised its rights in accordance with this *section 6*.

## Monitoring of Gas Quality

* 1. Without limitation, the Interconnected Party shall monitor the quality of the gas it injects as set out in the following table:

|  |  |  |
| --- | --- | --- |
| **Characteristic or Component to Measure and/or Determine** | | **Required Measurement and/or Determination Frequency** |
| (a) | Wobbe Index | continuously |
| (b) | Relative Density | continuously |
| (c) | Hydrocarbon dewpoint | continuously |
| (d) | Water | continuously |
| (e) | Hydrogen Sulphide | as required but not less than quarterly |
| (f) | Total Sulphur (as S, excluding Sulphur due to odorant) | as required but not less than quarterly |
| (g) | Oxygen | continuously |
| (h) | Hydrogen | as required but not less than quarterly |
| (i) | Temperature | continuously |

To the extent the Interconnected Party can demonstrate to First Gas with reasonable supporting evidence that:

* + 1. none of the characteristics or components in the above table can exceed; or
    2. one or more of the components (e) to (h) in the above table does not occur at all, or occurs only at a much lower concentration compared to,

the relevant limit set out in the Gas Specification, the Interconnected Party may measure and/or determine that characteristic or component less frequently than stipulated in the above table, provided that its monitoring is sufficient to demonstrate compliance with the Gas Specification.

* 1. First Gas may disclose any exceptions to the testing frequencies set out in *section 6.10* to any other person, including by publishing that information on OATIS.
  2. Where it also produces the gas it injects, the Interconnected Party shall test for each of the components (e) to (h) in *section 6.10* following any material change in the source of its gas, including in the proportions of gas obtained from any new reservoir and/or production zones in any reservoir.
  3. The Interconnected Party shall determine the values of the characteristics or components (d) to (i) in *section 6.10* by direct measurement or testing. When so doing the Interconnected Party shall use only:
     1. industry standard equipment and facilities and suitably qualified and competent persons; and
     2. either the relevant test method suggested in the Gas Specification or such other method as will produce results that are no less accurate or reproducible.
  4. The Interconnected Party may determine the value of characteristic (c) in *section 6.10* by calculation from the composition of gas injected, provided that:
     1. it obtains First Gas’ approval (not to be unreasonably withheld); and
     2. the method it uses is sufficiently accurate to meet the requirements of the Gas Specification.

## No Contaminants

* 1. During both normal operations and when pigging or otherwise cleaning its Pipeline, the Interconnected Party shall ensure that all gas it injects at a Receipt Point is free of both dust and other solid and liquid matter, including hydrocarbon liquids, wax, gums, compressor oil and unsaturated hydrocarbons to an extent that might damage or interfere with the proper operation of any First Gas Equipment or First Gas’ Pipeline, either immediately or over time.

## Provide Gas Testing Results

* 1. The Interconnected Party shall on request promptly provide First Gas with copies of any data from monitoring, measuring or testing of gas undertaken pursuant to this *section 6*, including for up to 5 years prior to the date of the request.First Gas may disclose such information to any other person, including by publishing that information on OATIS.
  2. The Interconnected Party agrees that any injection by it of Non-Specification Gasshall constitute a failure to act as a Reasonable and Prudent Operator.

# odorisation

## Odorised Pipeline

* 1. If First Gas’ Pipeline is stipulated as “Odorised” in Schedule One, there must be appropriate Odorisation Facilities at that Receipt Point to ensure that all Gas injected complies with the detectability requirements set out in New Zealand Standard 5263:2003: Gas Detection and Odorisation. First Gas will specify the odorant that must be used.

## Ownership of Odorisation Facilities

* 1. In respect of any Additional Receipt Point on an Odorised Pipeline, First Gas may elect, but shall not be obliged to own the required Odorisation Facilities. The design, construction, operation and maintenance of Odorisation Facilities shall be the responsibility of the owner of the Odorisation Facilities.

## Land for Odorisation Facilities

* 1. Where First Gas elects to own Odorisation Facilities it may require the Interconnected Party to provide it with an area of land at or adjacent to the Receipt Point which First Gas reasonably agrees is sufficient to accommodate the Odorisation Facilities. The Interconnected Party will grant First Gas a bare licence to occupy and use that land for all purposes associated with the installation, operation (including unloading, storage and load-out of odorant) and maintenance (including upgrading or replacing) of Odorisation Facilities, free of any charge.
  2. When undertaking any of the activities referred to in *section 7.3*, First Gas shall comply with the requirements of *section 13.2*.

## Odorisation Facilities

* 1. The Odorisation Facilities may include:
     1. an odorant storage vessel not exceeding 5 cubic metres capacity;
     2. a primary means of odorisation (e.g. an odorant injection pump);
     3. a control system to regulate the injection of odorant;
     4. a secondary means of odorisation in case the primary means fails;
     5. an internally-bunded shelter for the items in *sections 7.5(a) to (d)*;
     6. a flare system in a non-Hazardous area to safely dispose of odorant vapour; and
     7. a suitably sealed and bunded area where odorant is off-loaded in bulk from a vehicle to the odorant storage vessel.

## Services to Odorisation Facilities

* 1. Where First Gas owns the Odorisation Facilities, the Interconnected Party shall provide it with the services it reasonably requires, free of any charge, including:
     1. 24 Volt DC and 230 Volt AC power supplies;
     2. a suitable signal representing the flow rate or quantities of Gas to be odorised;
     3. a supply of Gas at a pressure not exceeding 10 bar gauge;
     4. a water supply adjacent to the shelter referred to in *section 7.5(e)* suitable for a personnel safety shower;
     5. suitable cabling and any related facilities to convey the data referred to in *section 7.7* to the Remote Monitoring Equipment,

at agreed termination points at the boundary of the Odorisation Facilities. The Interconnected Party shall also provide reasonable all-weather access to the Odorisation Facilities for vehicles and personnel for the purposes of *section 7.3*.

## Remote Monitoring of Odorisation Facilities

* 1. Irrespective of whether it owns any Odorisation Facilities, the Interconnected Party shall enable First Gas to remotely monitor:
     1. the status or availability of the primary means of odorisation including, where that is an odorant injection pump, direct indication of operation such as stroke rate or speed;
     2. odorant flow rate and/or the volumes of odorant being injected;
     3. odorant storage vessel inventory or liquid level;
     4. odorant storage vessel vapour space pressure and the status of any pressure-relief device;
     5. the Gas supply pressure to the Odorisation Facilities;
     6. the electricity supply to the Odorisation Facilities;
     7. the operating status of the odorant vapour flare; and
     8. any alarm conditions and other parameters it reasonably considers to be relevant.

## No Injection Without Odorisation

* 1. The owner of Odorisation Facilities will use reasonable endeavours to maintain odorisation at all times.
  2. Where a Party becomes aware that odorisation has failed, it will notify the other Party immediately. For the purposes of this *section 7.9*, a failure of odorisation shall include excessive odorisation as well as a total or partial failure of odorisation.
  3. The Interconnected Party shall cease injecting Gas as soon as practicable on becoming aware of (or being informed of) any odorisation failure. The owner of the Odorisation Facilities will investigate and restore normal odorisation as soon as practicable, whereupon the Interconnected Party may resume injecting Gas.
  4. Notwithstanding any other provision of this Agreement, First Gas may cease odorising Gas in any Pipeline or at any Receipt Point on expiry of not less than 18 Months’ written notice to the Interconnected Party and all Shippers.

# health and safety

* 1. At any Receipt Point, each Party shall (as applicable) ensure that its personnel:
     1. comply with all applicable health and safety law;
     2. comply with its own and other Party’s health and safety plan, as provided to each Party;
     3. take all practicable steps to identify and eliminate risks to health and safety or, where elimination of a risk is impractical, take all practicable steps to minimise it;
     4. immediately advise the other Party verbally of any incident affecting, or which may affect, that Receipt Point and which must be reported or notified to the relevant authority pursuant to the relevant law, and as soon as possible afterwards, provide the other Party with:
        1. written details of the incident;
        2. a copy of any notice given to the relevant authority; and
        3. details of steps taken or to be taken to eliminate or minimise any risk associated with that incident; and
     5. provide all information and assistance reasonably requested by the other Party to ensure that no harm comes to any persons.
  2. For the purpose of this *section 8* “all practicable steps” shall be deemed to have been taken where the relevant Party has taken all those steps required under applicable law.

# Curtailment

## Adverse Events

* 1. Subject to the balance of this *section 9*, First Gas will use reasonable endeavours to avoid curtailing the injection of Gas at a Receipt Point. First Gas may curtail the injection of Gas (or the ability to inject Gas) at a Receipt Point to the extent it determines to be necessary, where:
     1. an Emergency is occurring or is imminent;
     2. a Force Majeure Event has occurred;
     3. a Critical Contingency would otherwise occur;
     4. a Shipper’s GTA expires or is terminated, or a Shipper is otherwise not entitled to receive Gas at that Receipt Point; or
     5. this Agreement expires or is terminated, either in total or in relation to that Receipt Point,

provided that in relation to the events described in this *section 9.1(a)* or *(b)*, First Gas shall use reasonable endeavours to minimise the period of curtailment.

## Maintenance

* 1. Where it requires to carry out scheduled Maintenance that will curtail the Interconnected Party’s ability to inject Gas (but not any scheduled Maintenance which it believes will not have that effect), First Gas will:
     1. notify the Interconnected Party as early as practicable (but not less than 20 Business Days prior to commencing work) of the likely duration of that work;
     2. advise the Interconnected Party of the expected impact on its ability to inject Gas at that Receipt Point and/or any other effects;
     3. consult the Interconnected Party and use reasonable endeavours to undertake that scheduled Maintenance at an agreed time; and
     4. minimise the period of any curtailment.

Where the start of any scheduled Maintenance notified pursuant to this *section 9.2* is delayed, First Gas will promptly notify the Interconnected Party of that delay on OATIS, but will not be required to re-start the 20 Business Days’ notice period.

* 1. First Gas may carry out unscheduled Maintenance at a Receipt Point in relation to events referred to in *section 9.1(a)*, *(b)* or *(c)*, but must give the Interconnected Party as much notice as practicable.
  2. The Interconnected Party shall reasonably facilitate First Gas’ scheduled or unscheduled Maintenance, as and when requested by First Gas.
  3. The Interconnected Party, where it intends to carry out maintenance or other work that will significantly reduce (or increase) its injection of Gas (but not any other maintenance or work), shall:
     1. give First Gas as much notice as practicable before commencing that maintenance or other work; and
     2. advise First Gas of the likely duration of that maintenance or other work and the extent of the expected reduction in its injection of Gas.

## Operational Flow Order

* 1. If any of the events described in *section 9.1(a)* to *(e)* occurs, First Gas may give the Interconnected Party an Operational Flow Order, which the Interconnected Party shall use its best endeavours to comply with in the shortest practicable time. First Gas will minimise the period of curtailment stipulated in an OFO to the extent practicable. First Gas will publish each OFO on OATIS.
  2. If the Interconnected Party is a Gas producer and needs a quantity of Gas to shut down its production plant with minimal risk of damage to that plant, it shall notify First Gas of that requirement and of the specific quantity of Gas required. If First Gas subsequently issues an OFO to the Interconnected Party, it will if practicable allow for such quantity of Gas to be injected.

## Curtailment of Nominated Quantities

* 1. Pursuant to *section 9.6*, First Gas will curtail each Shipper’s most recent Approved Nominated Quantity at that Receipt Point in OATIS, including where an OBA applies, in accordance with the OFO and the Code.

## Critical Contingency

* 1. In the event of a Critical Contingency, the Interconnected Party shall curtail its injection of Gas (or its ability to inject Gas) at a Receipt Point as required to comply with the instructions of the Critical Contingency Operator.

## Failure to Comply

* 1. The Interconnected Party agrees that if it fails to comply with an OFO:
     1. First Gas may curtail the Interconnected Party’s injection of Gas itself; and
     2. the Interconnected Party shall be deemed not to have acted as a Reasonable and Prudent Operator and shall indemnify First Gas for any Loss incurred by First Gas (except to the extent that First Gas contributed to that Loss and/or did not use reasonable endeavours to mitigate its Loss).

## Relief from Charges

* 1. In relation to any curtailment under *section 9.1(a)* to *(c)* or *section 9.2,* the Interconnection Fee and the Odorisation Fee (if any) at a Receipt Point will not be payable for the period of that curtailment to the extent of the reduction in the normal or intended injection of Gas, except to the extent that the Interconnected Party:
     1. caused or contributed to any event or circumstance giving rise to that curtailment, including in the circumstances referred to in *sections 3.4* or *3.5*;
     2. was itself carrying out maintenance or other work to the extent that its ability to inject Gas was less than the curtailment; or
     3. failed to comply with an instruction from First Gas under *section 9.6* or from the Critical Contingency Operator under *section 9.9*.

# prudential

* 1. At all times during the term of this Agreement and until the Interconnected Party has paid all outstanding amounts and all amounts payable or which may become payable in the 24 Months following expiry or termination of this Agreement, the Interconnected Party must, at its election:
     1. hold an acceptable credit rating in accordance with *section 10.2*; or
     2. arrange for a third party to provide one or a combination of the following securities (each a *Credit Support*), for the amount required in accordance with this *section 10*, provided the party providing the Credit Support maintains an acceptable credit rating in accordance with *section 10.2*:
        1. an unconditional payment guarantee or letter of credit in favour of First Gas; or
        2. an unconditional third party payment guarantee in favour of First Gas; or
        3. a security bond in favour of First Gas.
  2. For the purposes of *section 10.1*, an acceptable credit rating means a long term credit rating of at least Baa3 (Moody’s Investor Services Inc.), BBB- (Standard & Poors Ratings Group), B (AM Best), B (Fitch) or such other equivalent credit rating or other reference from a reputable person which is reasonably acceptable to First Gas, (including confirmation from an auditor that, in its opinion, the relevant Interconnected Party or third party Credit Support provider satisfies the criteria that would be applied in the granting of such a credit rating).
  3. First Gas may require the Interconnected Party or third party Credit Support provider, as the case may be, to provide evidence of the existence of an acceptable credit rating (as set out in *section 10.2*).
  4. The amount secured by any Credit Support will be First Gas’ reasonable estimate of 3 Months of the Charges and (if applicable) the OBA Charges (plus GST), provided that either Party may review that amount (though not more frequently than quarterly) and require it to be adjusted up or down.
  5. The Interconnected Party shall as soon as reasonably practicable notify First Gas if:
     1. the Interconnected Party ceases to comply with *section 10.1*;
     2. the Interconnected Party believes that its financial position is likely to be materially adversely impaired such that its ability to pay the Charges and the OBA Charges will consequently be affected;
     3. a third party security provider (upon which its current satisfaction of the prudential requirements in this *section 10* is dependent) ceases to hold an acceptable credit rating in terms of *section 10.1*; or
     4. either it, or the third party Credit Support provider is placed on negative credit watch.
  6. If the Interconnected Party fails to pay First Gas any amount set out in any invoice issued by First Gas pursuant to this Agreement on the due date for payment (otherwise than for manifest error or as a result of an invoice dispute or dispute) then on the expiry of 5 Days’ prior written notice from First Gas, without limiting any other right it may have under this Agreement, First Gas may:
     1. make a claim under any Credit Support to the extent payment is due and the Interconnected Party shall procure that payment;
     2. require Credit Support, if Credit Support has not already been provided;
     3. require a change to the type of Credit Support provided; and/or
     4. require an increase in the level of Credit Support.
  7. Where First Gas makes a claim against any Credit Support, the Interconnected Party must procure replacement Credit Support within 10 Business Days so that the Credit Support requirements set out in *section 10.1* continue to be met.
  8. Where an Interconnected Party is required to provide new or additional Credit Support, it must do so within 20 Business Days of First Gas’ written request.
  9. If this Agreement is terminated, First Gas will release any associated security when and to the extent that the Interconnected Party has paid all outstanding amounts under this Agreement.

# fees and charges

## Interconnection and Odorisation Fees

* 1. Where, in respect of a Receipt Point in operation on the Commencement Date, an Interconnection Fee:
     1. has not previously been payable, First Gas will not charge any such fee during the term of this Agreement, except to the extent that Receipt Point becomes an Additional Receipt Point; or
     2. is payable, that fee, together with the procedure for adjusting or redetermining it, will be as recorded in Schedule One.
  2. In respect of any Additional Receipt Point, First Gas shall determine how it will recover its costs to design, construct, operate and maintain any required modifications or additions to its Pipeline and any First Gas Equipment, including via an Interconnection Fee (and, if applicable, a Termination Fee) payable by the Interconnected Party and determined in accordance with this *section 11*.
  3. If it elects to own Odorisation Facilities and recover its costs to design, construct, operate and maintain them via a separate Odorisation Fee payable by the Interconnected Party, First Gas may determine that fee (and any associated Termination Fee) as described in this *section 11*.

## Determination of Fees

* 1. In respect of an Additional Receipt Point, First Gas shall set out provisional Interconnection and Termination Fees in the Amending Agreement to be executed by the Parties. First Gas will determine those provisional fees using the then-current Regulatory Settings and First Gas’ reasonable estimate of the cost to First Gas to design, build, operate and maintain that Additional Receipt Point (*Estimated RP Cost*).
  2. Subject to *sections 11.6* and *11.7*, no later than 6 Months after the Gas-On Date for an Additional Receipt Point, First Gas shall determine confirmed Interconnection and Termination Fees for each Year until the Expiry Date using the then-current Regulatory Settings and the actual cost to First Gas to design, build, operate and maintain the Additional Receipt Point (*Actual RP Cost*). First Gas will promptly notify the Interconnected Party in writing of that Actual RP Cost (together with reasonable supporting detail) and the confirmed fees for each Year until the Expiry Date, which shall replace the provisional fees set out in the Amending Agreement. First Gas shall, in its next invoice, debit or credit the Interconnected Party (as the case may be) for the difference between the amount paid by it based on the provisional Interconnection Fee and the amount it would have paid based on the confirmed Interconnection Fee.
  3. With effect from the first Reset Date after the Gas-on Date for any Additional Receipt Point and every subsequent Reset Date until the Expiry Date, First Gas will re-determine the Interconnection Fees and Termination Fees for each Year remaining until the Expiry Date using the then-current Regulatory Settings and the Actual RP Cost (the new fees to be effective from each Reset Date), and notify the Interconnected Party of those new fees in writing (together with reasonable supporting detail). No adjustment to any amounts previously paid by the Interconnected Party shall be required after any re-determination of Interconnection Fees.
  4. If, pursuant to any request by the Interconnected Party, First Gas agrees to make material modifications (as determined by First Gas) to its Pipeline or any First Gas Equipment after execution of the relevant Amending Agreement, First Gas may re-determine the Interconnection Fees and the Termination Fees to reflect any actual and reasonable costs it expects to incur as a result of those modifications.
  5. When determining or redetermining any fees pursuant to this *section 11*, First Gas will not include any costs not directly related to the relevant Receipt Point or Odorisation Facilities. First Gas will round up all Interconnection Fees, Termination Fees and Odorisation Fees to the nearest dollar per Day.
  6. Interconnected Fees and Odorisation Fees shall be payable from the relevant Gas-on Date until the Expiry Date (inclusive), subject to early termination of this Agreement (in relation to a Receipt Point or in total) pursuantto *section 14*, provided that if First Gas gives notice under *section 7.11*, the relevant Odorisation Fee shall cease to be payable on expiry of the required notice period and no Termination Fee shall be be payable in respect of those Odorisation Facilities.

## OBA Charges

* 1. To the extent it is an OBA Party, the Interconnected Party shall be liable for and shall pay to First Gas:
     1. Balancing Gas Charges; and
     2. charges for Excess Running Mismatch;

(together, *OBA Charges*) determined by First Gas in accordance with the Code.

## Over-Flow Charge

* 1. The Interconnected Party shall pay a charge for any Hour in which the metered quantity at a Receipt Point exceeds the Physical MHQ of that Receipt Point (*Over-Flow Charge*), equal to:

Fee × OFQ × 20

where:

*Fee* is First Gas’ highest published fee for Daily Nominated Capacity on the Transmission System (expressed in $/GJ) in the current Year;

*OFQ*, the Over-Flow Quantity, is the greater of:

* + - 1. the Hourly metered quantity – Physical MHQ; and
      2. zero.

## Excessive Flow Causing Loss

* 1. In addition to any Over-Flow Charge and/or amount under *section 3.4(a)* it may be liable to pay, the Interconnected Party shall indemnify First Gas for any Loss incurred by First Gas that arises from its Over-Flow (where that Loss shall include any Interconnection Fees, Transmission Charges and/or Non-standard Transmission Charges which First Gas may be required to waive or rebate as a result) up to the Capped Amounts. First Gas shall use reasonable endeavours in the circumstances to mitigate its Loss. The Interconnected Party shall:
     1. not be relieved of liability under the indemnity in this *section 11.12*; and
     2. be deemed not to have acted as a Reasonable and Prudent Operator,

if its Over-Flow result in a Critical Contingency being declared.

## Credits Receivable as an OBA Party

* 1. To the extent it is an OBA Party, First Gas will credit the Interconnected Party in accordance with the Code:
     1. any Balancing Gas Credits due to it; and
     2. a share of the total Excess Running Mismatch Charges payable by all Receipt Point OBA Parties in respect of the previous Month, equal to:

ERMCOBRP × MQIP ÷ ∑MQOBRP

where:

*ERMCOBRP* is the aggregate of the charges for Negative ERM and Positive ERM payable by all OBA Parties at Receipt Points that Month;

*MQIP* is the aggregate of the metered quantities for that Month of all Receipt Points under this Agreement at which an OBA applies; and

*∑MQOBRP* is the aggregate of the metered quantities for that Month of all Receipt Points at which an OBA applies.

# invoicing and payment

## Timing

* 1. First Gas shall invoice the Interconnected Party in respect of the previous (and any prior) Month, on or before:
     1. the 10th Day of each Month for the Charges (if any) and any other amounts (excluding Balancing Gas Charges); and
     2. the 14th Day of each Month (or as soon thereafter as is practicable), for the Balancing Charges (if any),

provided that where the Balancing Gas Charges for a Month are less than the Balancing Gas Credits for that Month, First Gas will credit the difference against any Balancing Gas Charges payable the following Month.

## Goods and Services Tax

* 1. First Gas shall express all amounts payable to it under this Agreement as excluding GST, which shall be due and payable at the same time as the payment to which it relates is due (*GST Amount*). Any invoices provided to the Interconnected Party under *section 12.1* shall specify the GST Amount and comply with the “tax invoice” requirements in the Goods and Services Tax Act 1985.

## Other Taxes

* 1. In addition to the Charges, OBA Charges and GST payable, the Interconnected Party shall pay to First Gas an amount equal to any new or increased tax, duty, impost, levy or charge (but excluding income tax and rates) (each a *Tax*) directly or indirectly imposed by the Government or any other regulatory authority that directly relates to First Gas’ provision of services under this Agreement (including First Gas’ sale and purchase of Balancing Gas), or in respect of any goods or services provided pursuant to this Agreement. First Gas will pass on any decrease of any such Tax to the Interconnected Party.

## Issuing of Invoices

* 1. First Gas may issue any invoice (together with any supporting information) under *section 12.1* by:
     1. e-mailing to the Interconnected Party’s e-mail address most recently (and specifically) notified in writing to First Gas; and/or
     2. posting the invoice as one or more PDF files on OATIS.

## Payment by the Interconnected Party

* 1. Subject to *sections 12.1* and *12.6* to *12.8*, the Interconnected Party shall pay to First Gas the aggregate amount stated on each invoice by direct credit to First Gas’ bank account stated on the invoice (or to any other bank account notified by First Gas in writing) by the later of:
     1. the 20th Day of the Month in which the invoice is issued; and
     2. 10 Business Days after the invoice is issued.

The Interconnected Party shall no later than one Business Day after it makes a payment notify First Gas of the invoice numbers and the respective amounts to which that payment relates.

## Disputed Invoices

* 1. Subject to *section 12.7*, if the Interconnected Party disputes any invoiced amount under *section 12.1*, (*Invoice Dispute*), the Interconnected Party shall, within 10 Days from the date it received the invoice, notify First Gas in writing identifying the amount in dispute and giving full reasons for the dispute (*Invoice Dispute Notice*). The Interconnected Party shall pay the undisputed portion of the invoice. If the Invoice Dispute has not been resolved by negotiation between the Parties within 10 Business Days of First Gas receiving the Invoice Dispute Notice, *section 18* shall apply.
  2. In the absence of any manifest error, the Interconnected Party shall pay each invoiced amount in full in accordance with *section 12.5* without any deduction or set-off of any kind.

## Incorrect Invoices

* 1. If it shall be found at any time that the Interconnected Party has been overcharged or undercharged then, within 30 Days after that error has been discovered and the correct amount has been agreed by the Parties or determined pursuant to *section 18*, First Gas shall issue a credit note or debit note (as appropriate) in accordance with the Goods and Services Tax Act 1985. If the Interconnected Party has paid the invoice(s) containing an overcharge or undercharge, First Gas will refund or pay the Interconnected Party the amount of that overcharge or undercharge, as appropriate, as a correction on its next invoice, provided that there shall be no right to re-open invoices if more than 18 Months has elapsed since the date of the invoice.

## Default Interest

* 1. Where the Interconnected Party defaults without reasonable excuse in the payment on the due date of any amount payable under this Agreement, then interest shall be payable on the amount unpaid from the due date for payment until the date payment is made, at a rate equal to the Bill Rate plus 5% per annum, calculated on a Daily basis (compounded Monthly).

# ACCESS RIGHTS

## Grant of Rights

* 1. The Interconnected Party grants First Gas a right to access a Receipt Point on the terms set out in this *section* *13* to the extent necessary for First Gas to:
     1. carry out Maintenance on First Gas’ Pipeline and any First Gas Equipment; and
     2. exercise any right First Gas may have under this Agreement.

## Exercise of Rights

* 1. The following procedures apply to the exercise of the rights of access conferred by *section 13.1*:
     1. only “Approved Persons” may enter a Receipt Point, where Approved Persons means those of First Gas’ officers, agents, employees and contractors (including subcontractors) who are certified by virtue of completing the set of competency requirements created by the Gas Association of New Zealand and authorised by both First Gas and the Interconnected Party to carry out that type of work on or in relation to its Pipeline or any First Gas Equipment;
     2. First Gas will take reasonable steps to ensure that its Approved Persons cause as little inconvenience to the Interconnected Party as is reasonably practicable and comply at all times with the Interconnected Party’s standard safety, environmental and security policies and procedures, as notified to First Gas in writing from time to time;
     3. First Gas must obtain a Work Permit from the Interconnected Party before any Approved Persons enter a Receipt Point to carry out any hot work, electrical work or excavation. First Gas shall not be required to obtain a Work Permit to enter a Receipt Point to carry out general Maintenance or operational checks on its Pipeline or any First Gas Equipment;
     4. First Gas will give the Interconnected Party at least 48 hours’ written notice of its requirement for a Work Permit, and specify why it requires access to a Receipt Point. The Interconnected Party shall not unreasonably withhold or delay its consent to any request for a Work Permit;
     5. The Interconnected Party may withdraw or suspend the right of access of any Approved Person for any failure by that person to comply with the performance requirements referred to in *section 13.2(b)*;
     6. where relevant a Receipt Point will be dual locked so that each of First Gas and the Interconnected Party can access it without requiring a key for the other Party’s lock;
     7. except where an Interconnected Party representative is present, Approved Persons shall notify the Interconnected Party both when they enter and leave a Receipt Point;
     8. the Interconnected Party may temporarily withdraw or suspend any Approved Person’s access to a Receipt Point at any time and without notice during an Emergency (including when undertaking maintenance or other work required due to an Emergency) and/or Critical Contingency; and
     9. notwithstanding any other provision of this *section 13.2*, to respond to an Emergency First Gas will not be required to give the Interconnected Party prior written notice or obtain a Work Permit before entering a Receipt Point.

# term and TERMINATION

* 1. This Agreement will commence on the later of [ ] and the date it is signed by both Parties (*Commencement Date*).
  2. This Agreement will expire on the earlier of:
     1. 30 September [ ]; or
     2. in respect of an individual Receipt Point, the date determined pursuant to *section 14.3* or *section 14.6,* or the date on which the relevant Lease (if any) expires or is terminated*,*

(*Expiry Date).*

## Early Termination of Receipt Point

* 1. The Interconnected Party may terminate this Agreement in respect of a particular Receipt Point at the end of any Year provided that it:
     1. notifies First Gas in writing not later than 1 December in that Year; and
     2. pays First Gas, prior to the end of that Year:
        1. the Interconnection Fee (if any) and the Odorisation Fee (if any) for the remainder of the current Year in accordance with this Agreement; and
        2. the Termination Fee(s) (if any),

whereupon the relevant page of Schedule One shall be deemed deleted from this Agreement.

## Termination for cause

* 1. Either party may terminate this Agreement immediately on notice in writing to the other Party specifying the cause, if:
     1. the other Party defaults in payment of any money payable under this Agreement (other than in relation to an Invoice Dispute) for a period of 10 Business Days; or
     2. the Interconnected Party fails to comply with the prudential requirements set out in *section 10* for a period of 60 Business Days; or
     3. the other Party defaults in the performance of any material covenants or obligations imposed upon it by this Agreement and has not remedied that default within 30 Days of notice from the terminating party; or
     4. a resolution is passed or an order made by a court for the liquidation of the other Party, except for the purposes of solvent reconstruction or amalgamation; or
     5. the other Party makes or enters into or endeavours to make or enter into any composition, assignment or other arrangement with or for the benefit of that Party’s creditors; or
     6. a Force Majeure Event occurs such that other Party could not reasonably be expected to be in a position to perform its obligations under this Agreement within one Year.

## Suspension for Default

* 1. If the Interconnected Party is in breach of any material term or condition of this Agreement, First Gas shall be entitled to suspend its provision of services to the Interconnected Party for the duration of that non-compliance if, and to the extent that, in First Gas’ reasonable opinion, that action is necessary to protect other users of the Transmission System.

## Uneconomic Use

* 1. Subject to *section 14.7*, First Gas may terminate this Agreement in respect of any Receipt Point by written notice to the Interconnected Party with immediate effect in respect of which:
     1. the Interconnected Party does not commence injecting Gas within 6 Months of the Gas-on Date; or
     2. at any time after the Gas-on Date fails to inject Gas for a continuous period of 12 Months or more.
  2. First Gas will not terminate this Agreement pursuant to *section 14.6* in respect of any Receipt Point in respect of which the Interconnected Party:
     1. continues to pay First Gas’ Interconnection Fee and/or Odorisation Fee; or
     2. agrees, where no such Interconnection Fee and/or Odorisation Fee has previously been payable, to commence paying such fees,

provided that those Interconnection Fees and/or Odorisation Fees are sufficient, in First Gas’ reasonable opinion, to cover First Gas’ direct costs to operate and maintain all its equipment and facilities at that Receipt Point.

## Consequences of termination

* 1. Where First Gas is the terminating Party, it may:
     1. isolate or disconnect its Pipeline from any Receipt Point;
     2. remove any First Gas Equipment, including any Odorisation Facilities, and First Gas’ Pipeline from any Receipt Point;
     3. require the Interconnected Party to isolate or disconnect any Receipt Point from First Gas’ Pipeline and (if applicable) remove the same from First Gas’ property;

for the purposes of which *section 13* shall apply,

Where First Gas has terminated due to the Interconnected Party’s default, the Interconnected Party shall pay the amounts referred to in *section 14.3(b)* in respect of the relevant Receipt Point(s), as calculated by First Gas.

* 1. Where the Interconnected Party is the terminating Party, it may:
     1. isolate any Receipt Point and/or its Pipeline from First Gas’ Pipeline;
     2. require First Gas to isolate or disconnect its Pipeline from the Interconnected Party’s Pipeline and remove any First Gas Equipment and First Gas’ Pipeline from the Interconnected Party’s property,

for the purposes of which *section 13* shall apply.

## Termination Without Prejudice to Amounts Outstanding

* 1. The expiry or termination of this Agreement shall not relieve the Interconnected Party:
     1. or First Gas of its obligation to pay any amount outstanding under this Agreement; or
     2. if it was an OBA Party, of its obligation to settle its Running Mismatch in accordance with the Code, which, at First Gas’ election but following consultation with the Interconnected Party, may be effected either in dollar terms or by making Gas available for the Interconnected Party to take, or taking Gas from, the Interconnected Party.

## Effects of Termination

* 1. Termination or expiry of this Agreement shall not prejudice any rights or obligations of the Parties that existed prior to termination.
  2. The provisions of this Agreementshall continue in effect after its termination or expiry to the extent they relate to an event or circumstance that occurred prior to the date of termination or expiry.

# FORCE MAJEURE

* 1. Notwithstanding the other provisions of this Agreement, but subject to s*ection 15.2*, a Party shall be relieved from liability under this Agreement to the extent that a Force Majeure Event results in or causes a failure by that Party in the performance of any obligations imposed on it by this Agreement (*Affected Party*).
  2. Notwithstanding *section 15.1*, a Force Majeure Event shall not relieve an Affected Party from liability:
     1. to pay money due under this Agreement; or
     2. to give any notice required to be given pursuant to this Agreement (other than a notice via OATIS where OATIS is affected by such Force Majeure Event),

provided that the Interconnected Party shall be relieved of its obligation to pay any Interconnection Fee and Odorisation Fee to the extent that the Interconnected Party is unable to inject Gas at the relevant Receipt Point on account of that Force Majeure Event (as determined by First Gas).

* 1. If an Affected Party seeks relief under *section* *15.1*, that Party shall, upon the occurrence of any failure due to a Force Majeure Event:
     1. as soon as reasonably practicable but in any event within 48 hours give notice to the other Party of the occurrence of the event or circumstance claimed to be a Force Majeure Event and provide to the other Party full particulars relating to the event or circumstance and the cause of that failure. The notice shall also contain an estimate of the period of time required to remedy such failure;
     2. render the other Party reasonable opportunity and assistance to examine and investigate the event or circumstance and the matters which caused the event or circumstance and failure;
     3. as quickly as reasonably practicable, use due diligence and take reasonable steps to rectify, remedy, shorten or mitigate the circumstances giving rise to the Force Majeure Event so as to minimise any Loss or other effects of the suspension of obligations suffered or incurred, or likely to be suffered or incurred by the Party; and
     4. give notice as soon as reasonably practicable, but in any event within 48 hours to the other Party upon termination of the Force Majeure Event.
  2. A Party will not be able to claim relief from liability under *section 15.1* solely as a result of the act or omission of any agent or contractor of that Party, unless such act or omission is caused by or results from events and/or circumstances which would be a Force Majeure Event if such person were the Party.
  3. The Interconnected Party will not be able to claim relief from liability under *section 15.1* solely as a result of the suspended performance, or non-performance, of the obligations of any Shipper using a Receipt Point, only to the extent that such suspended performance, or non-performance of that Shipper’s obligations relates to that Receipt Point.

## Information

* 1. The Party who declares a Force Majeure Event shall, as soon as practicable after its occurrence, provide the other Party with a full report on the details of the event, its causes, its effects and the actions taken by that Party to rectify, remedy, shorten or mitigate the event or circumstance which gave rise to the Force Majeure Event. First Gas will publish that report on OATIS.

# LIABILITIES

## Exclusion from a Party’s Liability

* 1. Subject to any further limitations contained in this *section 16*,a Party (*Liable Party*) will not be liable to the other Party (*Other Party*) in respect of any Loss suffered or incurred by that Other Party that arises out of or in connection with this Agreement (in contract, tort or generally at common law, equity or otherwise), except to the extent that that Loss arose from an act or omission of the Liable Party that constituted a failure by it to comply with a provision of this Agreement to the standard of a Reasonable and Prudent Operator. The Liable Party shall only be liable to the Other Party to the extent that the Other Party did not cause or contribute to that Loss by a breach of this Agreement. The Liable Party shall not be liable to the extent that the Other Party has not used reasonable endeavours to mitigate its Loss.

## Limitation of a Party’s Liability

* 1. If the Liable Party is liable to the Other Party in respect of any Loss suffered or incurred by the Other Party that arises out of or in connection with this Agreement (in contract, tort or generally at common law, equity or otherwise), other than for payment of amounts due pursuant to *section 11*, the Liable Party will only be liable for direct Loss suffered or incurred by the Other Party excluding (and the Liable Party shall not be liable for):
     1. any loss of use, revenue, profit or savings by the Other Party;
     2. the amount of any damages awarded against the Other Party in favour of a third party, except where the Liable Party is liable to make a payment under *section 11.12*; and
     3. the amount of any money paid by the Other Party by way of settlement to a third party, except where the Liable Party is liable to make a payment under *section 11.12*.
  2. The Liable Party shall in no circumstances be liable for any indirect or consequential Loss arising directly or indirectly from any breach of its (or any of the other Party’s) obligations under this Agreement, whether or not the Loss was, or ought to have been, known by the Liable Party.

## Capped Liability

* 1. Subject to *section 16.5,* the maximum liability of a Party to the Other Party under this Agreement will be the same as the liability of a Shipper to First Gas and the liability of First Gas to a Shipper under the Code (the *Capped Amounts*).

## Liability where First Gas is the Liable Party under multiple agreements

* 1. Where:
     1. First Gas is the Liable Party; and
     2. First Gas’ liability is wholly or partially caused or contributed to by a breach of any other interconnection agreement or any TSA by one or more third parties (*Liable Third Parties*), and First Gas recovers (using reasonable endeavours to pursue and seek recovery of those amounts, or pursuant to *section 16.11*) any amount from those Liable Third Parties in respect of that breach,

then First Gas’ liability shall be limited to the aggregate of the amount so recovered plus any First Gas-caused liability (where the First Gas-caused liability is any amount which First Gas caused or contributed to as a result of failing to act as a Reasonable and Prudent Operator, which in any event shall be limited to the Capped Amounts).

* 1. Where:
     1. First Gas is the Liable Party; and
     2. First Gas is liable to one or more interconnected parties under any other interconnection agreement and/or Shippers under any TSA (each such interconnection agreement or TSA being a *Coincident Agreement*); and
     3. the sum of First Gas’ liability to the Interconnected Party and to any other interconnected parties and Shippers before the application of any monetary caps (*the Apparent Liability*) exceeds the relevant Capped Amount,

then the maximum aggregate liability of First Gas to the Interconnected Party shall be reduced to an amount determined and notified to the Interconnected Party by First Gas, which amount shall reflect the proportion that First Gas’ liability to the Interconnected Party bears to the Apparent Liability, provided that the aggregate of First Gas’ liability to the Interconnected Party and under all Coincident Agreements shall not exceed the relevant Capped Amount.

* 1. Where the Liable Party is not First Gas, the maximum aggregate liability of the Liable Party to First Gas under this Agreement or any Coincident Agreements shall not exceed the Capped Amount.

## General

* 1. Each limitation or exclusion of this *section* *16* and each protection given to First Gas or the Interconnected Party or its respective officers, employees, or agents by any provision of this *section 16* is to be construed as a separate limitation or exclusion applying and surviving even if for any reason any of the provisions is held inapplicable in any circumstances and is intended to be for the benefit of and enforceable by each of the Party’s officers, employees, and agents.
  2. Nothing in this Agreement shall limit the right of either Party to enforce the terms of this Agreement by seeking equitable relief, including injunction and specific performance, in addition to all other remedies at law or in equity.

## Subrogated Claims

* 1. If First Gas is the subject of a claim by a Shipper or third party (the *Claimant*) where the claim (or any part of it) arises because of a purported breach of this Agreement by the Interconnected Party, the following procedure shall apply:
     1. First Gas shall immediately give notice of the claim to the Interconnected Party;
     2. First Gas will not make any payment or admission of liability in respect of the claim without the prior written consent of the Interconnected Party. The Interconnected Party will not unreasonably withhold or delay its consent under this *section 16.11(b)*;
     3. the Interconnected Party may elect to defend in the name of First Gas any third party claim involving any litigation. The Interconnected Party must notify First Gas of its election within 10 Business Days of receiving notice of the claim. First Gas shall provide or procure to be provided such assistance as the Interconnected Party may require provided that the Interconnected Party first agrees in writing to:
        1. indemnify First Gas against any liabilities resulting from that claim and/or defence of that claim except to the extent that First Gas has caused those liabilities; and
        2. pay any reasonable costs directly incurred by First Gas in providing assistance in defending the claim,

except that First Gas shall not be required to render any assistance to the Interconnected Party pursuant to this *section 16.10(c)* (other than allowing a defence in First Gas’ name) in circumstances where First Gas has reasonable grounds to refuse such assistance;

* + 1. if the Interconnected Party elects to defend a claim under *section 16.10(c)* then it may choose its own counsel for its defence. The costs of counsel will be met by the Interconnected Party;
    2. First Gas will not take any active steps which could be expected to directly result in the occurrence of an event for which an indemnity is payable under *section 16.10(c)(i)*; and
    3. the Interconnected Party shall not be required to make any payment in respect of any claim under this *section 16.10* based on a contingent liability until the contingent liability becomes an actual liability and is due and payable.
  1. If the Interconnected Party (*Claiming Party*) suffers a Loss arising from an act or omission of a Shipper in breach of its TSA or another interconnected party in breach of its interconnection agreement (each such Shipper or interconnected party being a *Breaching Party*) then:
     1. the Interconnected Party may elect to pursue its claim in the name of First Gas. The Interconnected Party must notify First Gas of its election. First Gas shall provide or procure to be provided such assistance as the Interconnected Party may require provided that the Interconnected Party first agrees in writing to:
        1. indemnify First Gas against any liabilities resulting from that claim and/or pursuit of that claim except to the extent that First Gas has directly caused those liabilities; and
        2. pay any reasonable costs directly incurred by First Gas in providing assistance in pursuing the claim,

except that First Gas shall not be required to render any assistance to the Interconnected Party pursuant to this *section 16.11(a)* (other than allowing proceedings to be commenced and prosecuted in First Gas’ name) in circumstances where First Gas has reasonable grounds to refuse suchassistance;

* + 1. if the Interconnected Party elects to pursue a claim under *section 16.11(a)* then it may choose its own counsel. The costs of counsel will be met by the Interconnected Party;
    2. the Interconnected Party’s Loss shall be deemed to be First Gas’ Loss for the purposes of the TSA or interconnection agreement between First Gas and the Breaching Party;
    3. a breach of the Breaching Party’s obligations under its TSA or interconnection agreement shall be deemed to be a breach by First Gas of this Agreement; and
    4. First Gas will not take any active steps which could be expected to directly result in the occurrence of an event for which an indemnity is payable under *section 16.11(a)(i)*.
  1. The Interconnected Party shall not make any claim, demand or commence proceedings directly against any Shipper in relation to that Shipper’s breach of its TSA or negligence in relation to any matter pertaining to or dealt with in the Code, or against any other interconnected party in relation to that party’s breach of its interconnection agreement. Neither the Interconnected Party nor First Gas shall make any claims, demands or commence proceedings against each other in relation to any matter dealt with by this Agreement (including a claim by either Party that the other Party has been negligent in relation to any such matter) except in accordance with this Agreement. Nothing shall prevent First Gas from exercising its rights and remedies under any TSA.
  2. Prior to First Gas making any claim against any Liable Third Party, First Gas shall first consult the Interconnected Party and provide an opportunity for the Interconnected Party to have its Loss included in First Gas’ claim(s). The Interconnected Party’s Loss shall be deemed to be First Gas’ Loss for the purposes of any claim against a Liable Third Party.
  3. If requested by either Party in writing, the other Party will show evidence of comprehensive liability insurance cover with a reputable insurer covering third party property damage and personal liability for which the other Party may be legally liable under or in relation to this Agreement, up to the Capped Amounts*,* except to the extent that such insurance is not permitted by law.
  4. For the purposes of this *section 16*, any reference to a breach of, or liability under a TSA shall include any breach of, or liability under a Supplementary Agreement or Interruptible Agreement.

# regulatory change

* 1. If a Party becomes aware of, or anticipates the introduction of, a Regulatory Change that necessitates a change to this Agreement, that Party may submit a change request requesting one or more such changes (a *Regulatory Change Request*).
  2. Neither Party (*Approving Party*) will withhold approval of any Regulatory Change Request submitted by the other Party, so long as:
     1. the changes requested are reasonably necessary to enable the Party requesting them to comply with the relevant Regulatory Change while continuing to perform its obligations under, and receive the intended benefit of, this Agreement;
     2. the Approving Party is technically and operationally capable of implementing the associated changes;
     3. any costs to be charged to the Interconnected Party under the Regulatory Change Request are reasonable in the circumstances; and
     4. the Regulatory Change Request is otherwise reasonable.
  3. Each Party will use commercially reasonable endeavours to prevent or mitigate (as applicable) the cost and impact of any Regulatory Change for which it seeks a change to this Agreement.

# disputes

* 1. Subject to *sections 12.6* and *12.8*, in the event of any dispute of whatever nature arising between the Parties the disputing Party shall notify the other Party of that dispute in writing (*Dispute Notice*). On receipt of a Dispute Notice, the Parties shall use reasonable endeavours to resolve the dispute by negotiation.
  2. If the dispute is not resolved by negotiation within 15 Business Days (or such other period as the Parties may agree in writing) of the date of the Dispute Notice, then the Parties shall submit the dispute to:
     1. resolution by an independent expert agreeable to both parties; or
     2. where the Parties cannot agree upon an independent expert within 5 Business Days after the expiry of the negotiation period referred to above, arbitration pursuant to the Arbitration Act 1996 (excluding paragraphs 4 and 5 of the Second Schedule to that Act).
  3. The arbitration will be conducted by an arbitrator appointed:
     1. jointly by the Parties; or
     2. if the Parties cannot agree on an arbitrator within 25 Business Days of the date of the Dispute Notice, by the President of the Arbitrators and Mediators’ Institute of New Zealand upon the application of either Party.
  4. Nothing in this *section 18* affects either Party’s right to seek urgent interlocutory relief.

# general AND LEGAL

## Notices

* 1. Subject to *section* *19.2*,all legal notices provided under this Agreement (which excludes all notifications of an operational nature required to be provided under this Agreement via OATIS) must be in writing and shall be deemed served if personally delivered or sent by registered mail or email to:
     1. in the case of First Gas, the contact set out below (or other such contact as First Gas may notify in writing):

Transmission Manager – Commercial  
First Gas Limited  
Level 6, Resimac House

45 Johnston Street  
PO Box 865  
Wellington 6011,

Email: [ ]@firstgas.co.nz; and

* + 1. in the case of the Interconnected Party, the contact set out below (or other such contact as the Interconnected Party may notify to First Gas in writing).

[ ]  
[ ]  
[ ]

[ ]  
[ ]  
[ ],

Email: [ ]@firstgas.co.nz

* 1. Any legal notice sent:
     1. via OATIS; or
     2. by email shall (unless the sender receives an automatic response stating that the recipient’s email address does not exist or that the email has not been successfully sent):
        1. if sent prior to 4.00 p.m. on any Business Day, be deemed served on that Business Day; or
        2. if sent after 4.00 p.m. on any Business Day, shall be deemed served on the next Business Day; or
     3. by registered mail shall be deemed served on the earlier of the date of receipt or on the second Business Day after the same was committed to post.

A notice concerning breach of this Agreement must be sent by email.

## Disclosure of Agreement

* 1. The Parties agree that this Agreement is not Confidential Information, that either Party may disclose it in full to any other person and that First Gas will publish the Agreement on OATIS.

## Waiver

* 1. No failure, delay or indulgence by a Party in exercising any power or right conferred on that Party by this Agreement will operate as a waiver of that power or right.

## Entire Agreement

* 1. This Agreement constitutes the entire agreement between the Parties in relation to the subject matter of this Agreement and supersedes all prior negotiations, representations and agreements between the Parties.

## Amendment

* 1. Except as otherwise expressly set out in this Agreement, no variation, modification or waiver of any provision of this Agreement shall be of any force or effect unless it is in writing and signed by both Parties.

## Severability

* 1. If any section or provision of this Agreement shall be held to be illegal or unenforceable by any judgment of any Court or tribunal having competent jurisdiction, that judgment shall not affect the remaining provisions of this Agreement which shall remain in full force and effect as if that illegal or unenforceable section or provision had not been included in this Agreement, but only if severance does not materially affect the purpose of, or frustrate, this Agreement. In that event, the severed section or provision shall be modified to the extent necessary to render it legal, valid and enforceable and to reflect the economic and operational effect of the severed section or provision to the maximum extent practicable.

## Exclusion of Implied Terms

* 1. All terms and conditions relating to this Agreement that are implied by law or custom are excluded to the maximum extent permitted by law.

## Exclusion of Consumer Legislation

* 1. The Parties acknowledge and agree that in relation to this Agreement:
     1. the Parties are in trade and agree to contract out of the provisions of the Consumer Guarantees Act 1993, and it is fair and reasonable to do so; and
     2. the provisions of sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 shall not apply to the obligations of the parties under, and that it is fair and reasonable that the Parties contract out of those provisions.

## Contractual Privity

* 1. This Agreement shall not and is not intended to confer any benefit on or create any obligation enforceable at the suit of any person who is not a Party to this Agreement.

## Counterparts

* 1. This Agreement may be executed in two counterparts. Once the Parties have executed the counterparts, and each Party has received a copy of the signed counterpart which that Party did not execute, each counterpart will be deemed to be as valid and binding on the Party executing it as if it had been executed by both Parties.

## Transfers

* 1. Neither Party shall transfer, whether by way of assignment, novation or otherwise, any of its rights or obligations under this Agreement unless it has obtained the other Party’s prior written consent, which must not to be unreasonably withheld or delayed.
  2. Neither Party shall transfer, whether by way of assignment, novation or otherwise, any of its rights and obligations under this Agreement, unless it believes that the transferee is capable of meeting that Party’s obligations under this Agreement.

## Assignment

* 1. Where this Agreement is transferred by way of assignment pursuant to *section 19.12* and *19.13*, the transferring Party (*Assignor*) assigns or transfers this Agreement, the Assignor shall remain liable to the other Party for the due performance of all obligations under this Agreement as primary obligor and not merely as surety or guarantor only. Where the Assignor is the Interconnected Party then, notwithstanding any other term of the assignment, the Interconnected Party shall continue to pay directly to First Gas any amounts payable under this Agreement up to and including the last Day of the Month during which the assignment takes effect.
  2. Prior to any assignment or transfer of this Agreement, the Assignor must obtain execution by the assignee of a deed of covenant, in favour of the other Party, binding the assignee to perform all the Assignor’s obligations under this Agreement.

## Novation

* 1. Where this Agreement is transferred by way of novation pursuant to *sections 19.12* and *19.13*, the transferring Party (*Exiting Party*), the other Party (*Counterparty*) and the party to whom this Agreement is to be novated (*Incoming Party*) must enter into a deed of novation, the terms of which shall be agreed between them, but which shall contain as a minimum require that:
     1. with effect from the date of novation:
        1. the Incoming Party shall be substituted for the Exiting Party under this Agreement;
        2. the Exiting Party shall then be released from all of its obligations and liabilities under this Agreement; and
        3. the Incoming Party shall:

1. be bound by, comply with and be liable to the Counterparty under, all the provisions of this Agreement; and
2. enjoy all the rights and benefits of the Exiting Party under this Agreement; and
   * 1. the Exiting Party shall retain all of its rights, and be liable to the Counterparty for all of its obligations under this Agreement up to the date of novation, provided that where the Exiting Party is the Interconnected Party then, notwithstanding any other term of the novation, the Interconnected Party shall continue to pay directly to First Gas any amounts payable under this Agreement up to and including the last Day of the Month during which the novation takes effect.

## Governing Law

* 1. This Agreement shall be construed and interpreted in accordance with the law of New Zealand and the Parties submit to the non-exclusive jurisdiction of the New Zealand courts.

# definitions and construction

## Defined Terms

* 1. Subject to *section 20.2*, capitalised terms have the meaning given to those terms in the Code.
  2. In this Agreement:

*Additional Receipt Point* means a receipt point that:

* + 1. is built after the Commencement Date; or
    2. is in operation on the Commencement Date but which is later modified to the extent that First Gas (in its reasonable opinion) needs to make material modifications to its Pipeline and/or any First Gas Equipment,

that is incorporated into this Agreement pursuant to an Amending Agreement;

*Agreed Injection Profile* or *AIP* means an schedule of Hourly Gas injection quantities for a Receipt Point requested by the Interconnected Party and approved by First Gas;

*Agreement* means this “Interconnection Agreement for Receipt Points”, including the schedules and appendices (if any) annexed;

*Amending Agreement* means an agreement, substantially in the form attached at Schedule Three, that provides for an Additional Receipt Point;

*Calorific Value* means the energy content of gas, expressed in units of Megajoules per standard cubic metre;

*Capped Amounts* has the meaning described in *section 16.4*;

*Charges* means all amounts payable by the Interconnected Party under this Agreement except OBA Charges;

*Code* means the Gas Transmission Access Code, as amended or replaced;

*Commencement Date*has the meaning set out in *section 14.1*;

*Credit Support* means the credit support arrangements set out in *section 10.1(b)*;

*Emergency* means a state of affairs, or an event or circumstance (or a series of events or circumstances) that a Party determines to be an emergency, irrespective of its cause or whoever may have caused or contributed to that emergency, including where:

* + 1. a Party reasonably believes that the safe transportation of Gas in its own or the other Party’s Pipeline is significantly at risk;
    2. Gas in the Interconnected Party’s Pipeline or at a Receipt Point is at a pressure, or is of a quality that constitutes a hazard to that Pipeline, Receipt Point or First Gas’ Pipeline;
    3. First Gas’ ability to receive Gas at a Receipt Point is impaired; or
    4. the rate of injection of Gas at a Receipt Point exceeds its Maximum Design Flow Rate, Physical MHQ or the flow rate specified in an Operational Flow Order;

*Expiry Date* has the meaning set out in *section 14.2*;

*First Gas Equipment* means equipment owned and/or controlled by First Gas and located at a Receipt Point, as described in Schedule One;

*Force Majeure Event* means an event or circumstance beyond the reasonable control of a Party which results in or causes a failure or inability by such Party in the performance of any obligations imposed on it by this Agreement, notwithstanding the exercise by such Party of reasonable care and, subject to the foregoing, shall include any such event or circumstance which causes a Critical Contingency to be determined and/or any action or inaction of a Party necessary to comply with the CCM Regulations which causes a failure or inability of the kind described above;

*Gas-on Date* means the date on which the Interconnected Party may first inject Gas at a Receipt Point (or Additional Receipt Point);

*Hazardous* means, in relation to an area or space, where that area or space is hazardous or potentially hazardous in respect of the electrical equipment that may be installed there, as defined in AS/NZS2430;

*Interconnection Fee* means the fee referred to in Schedule One and determined in accordance with *section 11*;

*Interconnected Party* means the Party named as the Interconnected Party in this Agreement;

*Interconnection Point* means the point at which First Gas’ Pipeline physically connects to a Receipt Point, being the demarcation point between the Parties’ respective assets, as defined in Schedule One;

*Invoice Dispute* has the meaning set out in *section 12.6*;

*Lease* means a lease agreement between the Parties under which First Gas leases from the Interconnected Party any land First Gas requires to enable the connection of its Pipeline to a Receipt Point;

*MAOP* means maximum allowable operating pressure;

*Maximum Design Flow Rate* means the maximum flow rate of Gas that a Receipt Point and Metering are designed to have flow through them and, in the case of Metering Accurately measure, as set out in Schedule One;

*Metering* means the equipment at the location set out in Schedule One and complying with the Metering Requirements which measures the quantities of Gas injected into First Gas’ Pipeline at a Receipt Point;

*Metering Owner* means the Party set out in Schedule One;

*Minimum Design Flow Rate* means the minimum flow rate of Gas that a Receipt Point and Metering are designed to have flow through them and, in the case of Metering Accurately measure, as set out in Schedule One;

*Nominated Quantity* and *Nominated Quantities* mean, in respect of a Day and a Receipt Point, the quantity of Gas that a Shipper (or Shippers) request the Interconnected Party, where it is an OBA Party, to inject into First Gas’ Pipeline for that Shipper (or those Shippers);

*OBA Charges* has the meaning set out in *section 11.10*;

*Odorisation Facilities* means the equipment and facilities, in accordance with *section 7*, to odorise Gas injected at a Receipt Point;

*Odorisation Fee* means the fee referred to in Schedule One and determined in accordance with *section 11*;

*Operational Flow Order* or *OFO* means a notice issued by First Gas pursuant to*9.7*;

*Party* means each of First Gas and the Interconnected Party and *Parties* means them collectively;

*Physical MHQ* means the Hourly energy equivalent of the Maximum Design Flow Rate of a Receipt Point, as set out in Schedule One;

*Pipeline* means:

* + 1. in relation to First Gas, that part of the Transmission System which connects to a Receipt Point; and

(b) in relation to the Interconnected Party, the high-pressure pipeline that conveys Gas to a Receipt Point;

*Reasonable and Prudent Operator* or *RPO* means, in relation to the performance of obligations under this Agreement, the application by the relevant Party of that degree of diligence, prudence and foresight reasonably and ordinarily exercised by experienced operators engaged in the same line of business under the same or similar circumstances and conditions having due consideration to the interests of the other users of the Transmission System;

*Receipt Point* means a facility that complies with the technical requirements set out in Schedule Two at which Gas is injected (or may be injected) into First Gas’ Pipeline, and includes any Additional Receipt Point, in each case the details of which are set out in Schedule One;

*Regulatory Change* means the enactment or variation (including through a change in the previously settled interpretation) of any law, regulation or mandatory industry standard;

*Regulatory Change Request* has the meaning given to that term in *section 17.1*;

*Regulatory Settings* means inputs relating to First Gas’ allowable return on investment as determined by the Commerce Commission, including weighted average cost of capital, leverage, cost of debt and asset life;

*Remote Monitoring Equipment* has the meaning set out in *paragraph 1.3* of Schedule Two;

*Reset Date* means the date on which new Regulatory Settings become effective;

*Tax* has the meaning set out in *section 12.3*;

*Termination Fee* means, in respect of any Receipt Point for which an Interconnection Fee and/or Odorisation Fee is payable, the amount that represents the cost to First Gas of First Gas’ equipment and facilities that remains to be recovered at the end of any Year, determined and notified by First Gas in accordance with *section 11*; and

*Work Permit* means the relevant permit issued by the Interconnected Party to First Gas under the Interconnected Party’s current “Permit to Work Procedure” pursuant to *section 13.2*.

## Code Amendments and Precedence

* 1. Where the Code confers rights or places obligations on the Interconnected Party, or refers to sections or terms of the Code, this Agreement will be deemed to be amended automatically if and when those rights or obligations, or sections or terms of the Code, are amended. In the event of any conflict or ambiguity between a provision of this Agreement and the Code, the Code shall prevail. In the event the Code is terminated during the term of this Agreement (and not replaced), this Agreement will:
     1. survive that termination and continue in full force and effect until the Expiry Date (subject to earlier termination in accordance with *section 14*); and
     2. the relevant terms of the Code will continue in full force and effect for the term of this Agreement unless First Gas and the Interconnected Party agree to amend them.

## Construction

* 1. In this Agreement, unless the context otherwise requires:
     1. “inject” includes to cause or allow Gas to flow at a Receipt Point, and other grammatical forms of “inject” shall be construed accordingly;
     2. “curtail” includes to reduce, either partly or to zero and to shut or close down;
     3. any reference to a "quantity of Gas” or an “energy quantity” is a reference to GJ of Gas unless otherwise stated;
     4. “scm” is a reference to a standard cubic metre, namely a cubic metre of gas at standard temperature and pressure, i.e. 15 ⁰C and 1.01325 bar absolute;
     5. any reference to "metered quantity” is a reference to the quantity of Gas determined using data obtained from Metering;
     6. all sections of this Agreement (excluding the definition of Non-Specification Gas) apply to Non-Specification Gas as if it were Gas;
     7. headings are for ease of reference only and shall not form any part of the context or affect the interpretation of this Agreement;
     8. references to persons shall be deemed to include references to individuals, companies, corporations, firms, partnerships, joint ventures, associations, organisations, trusts, states or agencies of state, government departments and local and municipal authorities in each case whether or not having separate legal personality;
     9. a reference to any enactment, regulation, New Zealand Standard or any section of the Code, is a reference to that enactment, regulation, New Zealand Standard or section as amended or substituted from time to time;
     10. any reference to a document includes all valid amendments, variations, supplements to, or replacements of such document;
     11. references to a Party includes its respective successors and permitted assignees;
     12. the singular includes the plural and vice versa;
     13. any derivation of a defined term or “inject” or “curtail” shall have a corresponding meaning;
     14. any reference to any person doing any specific thing includes that party doing (or having the right or ability to do that thing), unless specified otherwise;
     15. any reference to a prohibition against doing something includes a reference to not permitting, suffering or causing that thing to be done;
     16. any reference to a range of sections includes the first and last sections referenced;
     17. all references to any time of the Day shall, unless expressly referring to New Zealand standard time, be references to New Zealand statutory time (that is, including adjustments for New Zealand daylight savings time;
     18. any reference to “includes”, “including” or similar shall imply no limitation; and
     19. any reference to “law” includes all statutes, regulations, codes of practice and local authority rules.

**EXECUTION:**

|  |  |
| --- | --- |
| **First Gas Limited** by: | **[ ] Limited** by: |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of authorised signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of authorised signatory | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of authorised signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of authorised signatory |

# schedule one: Receipt Point details

|  |  |
| --- | --- |
| **Receipt Point** | **[name] (alpha-numeric ID)** |
| **Address** |  |
| **Status as at Commencement Date** | Existing |
| **Interconnection Fee** | Determined by First Gas in accordance with *section 11* |
| **Termination Fee** | Determined by First Gas in accordance with *section 11* |
| **Metering Location** | At the Receipt Point |
| **Metering Owner** | The Interconnected Party |
| **Maximum Design Flow Rate** | [ ] scm/hour |
| **Physical MHQ** | [ ] GJ |
| **Minimum Design Flow Rate** | [ ] scm/hour |
| **MAOP of Pipelines:** | |
| *First Gas’* | [ ] bar gauge |
| *Interconnected Party’s* | [ ] bar gauge |
| **Receipt Point Owner** |  |
| **Land Owner** |  |
| **First Gas Land Tenure** | [First Gas freehold / Lease] |
| **Interconnection Point** | [The outlet flange of the isolation valve designated HV-XXXXX on [ ] Flowsheet - Piping & Instrument Diagram number [XXXXXX-AAAA-NNN-TT]] |
| **First Gas Equipment:** |  |
| **Odorisation Status of First Gas’ Pipeline** | Odorised / Non-odorised |
| **Odorisation Facilities Owner (if any)** |  |
| **Odorisation Fee (if any)** | Determined by First Gas in accordance with *section 11* |

# schedule two: technical requirements

* 1. The design, construction, commissioning, operation and maintenance of each Receipt Point (including any First Gas Equipment) shall conform with good gas industry engineering practice and shall comply with the requirements of recognised and applicable standards as well as all current and relevant laws, including:
     1. AS 2885.1: 2007 Pipelines - Gas and Liquid Petroleum, Part 1: Design and Construction;
     2. Gas Act 1992 and associated regulations;
     3. Health and Safety at Work Act 2015;
     4. Health and Safety in Employment (Pipelines) Regulations;
     5. Resource Management Act 1991;
     6. Electrical (Safety) Regulations;
     7. AS/NZS 3000 – Wiring Rules;
     8. AS/NZS 60079.14 - Explosive Atmospheres: Electrical Installations, Design Selection and Erection; and
     9. mandatory Codes of Practice and Standards associated with any of the above.
  2. A Receipt Point must incorporate:
     1. appropriate security fencing to reasonably prevent unauthorised access;
     2. adequate means of access and egress for vehicles and personnel;
     3. adequate space to accommodate and permit the safe operation and maintenance of all equipment and structures;
     4. Metering;
     5. clear signs indicating restricted access and Hazardous areas, supplemented by secure barriers where required;
     6. only electrical equipment that complies with the NZ Electricity Act and Regulations;
     7. an above-ground isolation valve (specified by First Gas) to allow First Gas to securely and safely isolate its Pipeline from the Interconnected Party’s Pipeline;
     8. suitable bonding of above-ground piping and associated metallic structures to ensure the electrical continuity of such piping and structures, and a suitable earth bed to which such piping and structures are connected;
     9. means to electrically isolate First Gas’ Pipeline from a Receipt Point, as well as a suitable surge diverter installed across each such isolating device;
     10. equipment to reasonably prevent any solid or liquid contaminants from reaching First Gas’ Pipeline;
     11. a flow-restriction device (sonic nozzle or a restriction orifice plate) to prevent over-speeding of any meter and/or ensure that the relevant Maximum Design Flow Rate is not exceeded;
     12. a check (non-return) valve to prevent reverse flow through a Receipt Point.
  3. A Receipt Point shall incorporate equipment to enable First Gas to remotely monitor that Receipt Point, Metering and Odorisation Facilities (if any), retrieve data and other information and (if required) control any First Gas Equipment. Such equipment may include:
     1. a remote terminal unit for First Gas’ SCADA (“Supervisory, Control and Data Acquisition”) system, radio or other communications equipment, and related ancillary equipment; or
     2. such other suitable equipment as First Gas may reasonably require,

(the *Remote Monitoring Equipment*).

* 1. There must be a secure, weather-proof, vermin-proof and adequately ventilated shelter or building, located in a non-Hazardous area, to house such of its Equipment as First Gas reasonably considers requires such protection.
  2. Where the risk assessment referred to in *section 2.4(b)* indicates that means to prevent over-pressurisation of First Gas’ Pipeline are required then, unless First Gas agrees otherwise, such means shall comprise “working” and “standby” pressure control streams, both of which streams shall include:
     1. primary means of pressure control; and
     2. separate and independent means of over-pressure protection, which shall operate in the event that the primary means of pressure control fails.
  3. Pursuant to *paragraph 1.5*:
     1. the primary means of pressure control in both the working stream and the standby stream shall comprise an active regulator or pressure control valve ; and
     2. the means of over-pressure protection shall comprise:
        1. a monitor regulator in both the working stream and the standby stream; and
        2. a small-capacity (“token”) pressure relief valve sized for leakage past the active and monitor regulators and/or control valves when the same are in the closed (“no flow”) position; or
        3. a slam-shut valve; or
        4. all of (i), (ii) and (iii).
  4. Where required by First Gas to operate its Remote Monitoring Equipment, any other Equipment and Odorisation Facilities (if any), an external supply of electricity (*Mains Supply*) shall be provided. An uninterruptible power supply (*UPS*) shall also be installed, incorporating batteries with sufficient storage capacity to supply the normal electricity requirements of such First Gas’ equipment for not less than four hours if the Mains Supply fails.
  5. First Gas may require means to remotely control the flow of Gas at a Receipt Point.

# SCHEDULE three: amending agreement

**PARTIES:**

**First Gas Limited** (*First Gas*)

**[ ] Limited** (*the Interconnected Party*)

**BACKGROUND:**

1. First Gas and the Interconnected Party are party to an Interconnection Agreement for Receipt Points dated [ ] as amended by an Amending Agreement dated [ ] (the *ICA*).
2. The Parties wish to amend the ICA as set out in this Amending Agreement.

**THE PARTIES AGREE** as follows:

## Unless the context otherwise requires, *sections 20.1*, *20.2* (Definitions) and *20.4* (Construction) of the ICA apply in respect of this Amending Agreement.

## With effect from the date this Amending Agreement is signed by both Parties, the Additional Receipt Point referred to in the schedule to this Amending Agreement shall be incorporated into the ICA by addition to Schedule One of the ICA.

## Except as set out in this Amending Agreement, the ICA remains in full force and effect.

## 

**EXECUTION**:

|  |  |
| --- | --- |
| **First Gas Limited** by:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of authorised signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of authorised signatory | **[ ] Limited** by:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of authorised signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of authorised signatory |

**Schedule to Amending Agreement**

|  |  |
| --- | --- |
| **Receipt Point** |  |
| **Address** |  |
| **Metering Location** |  |
| **Metering Owner** |  |
| **Maximum Design Flow Rate** | **scmh @ [ ] bar g** |
| **Physical MHQ** | [ ] GJ |
| **Minimum Design Flow Rate** | **scmh @ [ ] bar g** |
| **MAOP of First Gas’ Pipeline** | **[ ] bar g** |
| **MAOP of Interconnected Party’s Pipeline** | **[ ] bar g** |
| **Receipt Point Owner** |  |
| **Land Owner** |  |
| **First Gas Land Tenure** |  |
| **Interconnection Point** |  |
| **First Gas Equipment:** |  |
| **Odorisation Status of First Gas’ Pipeline** | **Odorised / Unodorised** |
| **Odorisation Facilities Owner (if any)** |  |

**Provisional Fees Payable by the Interconnected Party**

|  |  |  |  |
| --- | --- | --- | --- |
| **Year Ending 30 September:** | **Interconnection Fee (dollars/Day)** | **Odorisation Fee (dollars/Day)** | **Termination Fee (dollars)** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |