

Interconnection Agreement for Receipt Points

First Gas Limited (First Gas)

[] (the Interconnected Party)

~~December 2017~~

[\[September 2018\]](#)

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PARTIES:

First Gas Limited (*First Gas*)

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

BACKGROUND:

- A First Gas owns and operates the Transmission System.
- B As at the date of this Agreement, the Interconnected Party is injecting Gas into First Gas' Pipeline at the existing Receipt Points.
- C 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 any Additional Receipt Points in future.

AGREEMENT:

1 ~~PARTIES' RIGHTS AND OBLIGATIONS~~ **DEFINITIONS AND CONSTRUCTION**

Defined Terms

1.1 Subject to section 1.2, capitalised terms used but not defined in this Agreement are to have the meaning given to those terms in the Code with any necessary changes for the context (including as such terms may be amended from time to time in accordance with the requirements of the Code and thereafter read with any necessary changes for the context).

1.2 In this Agreement:

Additional Receipt Point means a Receipt Point that:

- (a) is built and commissioned after the Commencement Date; or
- (b) 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,

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

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 ICA Schedule Three, that provides for an Additional Receipt Point;

Capped Amounts means the amounts specified in section 16.4(a) and (b) (as adjusted in accordance with section 16.5 as applicable);

Charges means all amounts payable by the Interconnected Party under this Agreement (except OBA Charges), including any Interconnection Fee or Odourisation Fee (each of which may be specified in \$/Day or some other basis) and any Termination Fee;

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

Commencement Date means the later of [•] and the date this Agreement is signed by both Parties;

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

Emergency means an event or circumstance (or a series of events or circumstances) which First Gas determines to be an emergency, irrespective of its cause or whoever (including First Gas) may have caused or contributed to that emergency. An Emergency exists where First Gas considers:

- (a) the safety of the Transmission System or the safe transportation of Gas is significantly at risk, including as a result of circumstances upstream or downstream of the Transmission System;
- (b) Gas is at a pressure, or is of a quality, that constitutes a hazard to persons, property or the environment, including where Gas in the Interconnected Party's Pipeline, First Gas' Pipeline or at a Receipt Point is at a pressure, or is of a quality, that constitutes a hazard to the Interconnected Party's Pipeline, the Receipt Point or First Gas' Pipeline;
- (c) First Gas' ability to receive Gas at a Receipt Point (or to make gas available at a Delivery Point) is impaired;
- (d) First Gas' ability to maintain safe pressures within a pipeline is affected or threatened, including where 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; or
- (e) there is an emergency under, or for the purposes of, the Code or any other interconnection agreement;

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, and includes the equipment as described as such in ICA 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 and includes any such event or circumstance that constitutes a force majeure event under, or for the purposes of, the Code or any other interconnection agreement;

Gas-on Date means the date on which the Interconnected Party may first inject Gas at a Receipt Point (or, subject to section 2.12, an Additional Receipt Point), but not where small quantities of Gas are injected solely for commissioning purposes;

Gross Calorific Value has the meaning set out in NZS 5259:2015 "Gas Measurement";

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 accordance with AS/NZS2430;

ICA Schedule One means ICA Schedule One to this Agreement, including as amended or updated pursuant to this Agreement and including any amendment to ICA Schedule One in respect of an Additional Receipt Point or Odourisation Facilities incorporated into this Agreement;

Interconnection Fee means the interconnection fees referred to as such in ICA Schedule One (including as amended, updated or added to pursuant to this Agreement) or determined and notified by First Gas in accordance with section 11 or otherwise in accordance with this Agreement (as applicable);

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 ICA Schedule One;

Invoice Dispute has the meaning set out in section 12.6;

Lease means an agreement 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 ICA Schedule One;

Metering means the equipment at the location set out in ICA Schedule One, and complying with the Metering Requirements, which measures the quantities of Gas

injected into First Gas' Pipeline at a Receipt Point in accordance with the requirements of this Agreement;

Metering Owner means the Party identified as such in ICA Schedule One;

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

OBA Charges has the meaning set out in section 11.10;

Odourisation Facilities means the equipment and facilities, complying with section 7 and ICA Schedule One, to odourise Gas injected at a Receipt Point;

Odourisation Facilities Owner means the owner of Odourisation Facilities as set out in ICA Schedule One;

Odourisation Fee means the odourisation fees referred to as such in ICA Schedule One (including as amended, updated or added to pursuant to this Agreement) or determined and notified by First Gas in accordance with section 11 or otherwise in accordance with this Agreement (as applicable);

Operational Flow Order or OFO means a notice issued by First Gas pursuant to section 9.6 requiring the Interconnected Party to take such actions as it is able to take to reduce its injection of Gas at a Receipt Point as set out in that notice;

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 ICA Schedule One;

Pipeline means:

- (a) 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 regard to the other interconnected parties and Shippers who also use the Transmission System to inject, convey or receive Gas and First Gas;

Receipt Point means a station or facility, including any associated land and equipment, that complies with the technical requirements set out in ICA Schedule

Two at which Gas is injected (or may be injected) into First Gas' Pipeline, and includes any Additional Receipt Point which complies with the technical requirements set out in ICA Schedule Two, in each case which is the subject of this Agreement and the details of which are set out in ICA 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 (or any such amended or replacement inputs and/or regulatory settings as apply from time to time);

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

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

Target Taranaki Pressure means the pressure determined by First Gas at or near the Bertrand Road Offtake to be sufficient to:

- (a) deliver Shippers' approved Nominated Quantities;
- (b) provide, using reasonable endeavours, a reasonable quantity of Gas for use in connection with an event or circumstance that First Gas believes, acting as a Reasonable and Prudent Operator, has or may detrimentally affect the transmission of Gas through the Transmission System or has or may deplete Line Pack to an unacceptable level, and includes an Emergency and a Critical Contingency; and/or
- (c) provide, using reasonable endeavours, a reasonable quantity of Gas to allow for delivery having regard to relevant Agreed Hourly Profiles and/or relevant Running Mismatch Tolerances;

Tax has the meaning set out in section 12.3;

Termination Fee means, in respect of any Receipt Point or Odourisation Facilities for which an Interconnection Fee and/or Odourisation Fee is payable, the amount that represents the cost to First Gas of First Gas' equipment and facilities for such Receipt Point and/or such Odourisation Facilities (as applicable) that remains to be recovered at the end of any Year, referred to as the termination fee in ICA Schedule One (including as amended, updated or added to pursuant to this Agreement) or determined and notified by First Gas in accordance with section 11 or otherwise in accordance with this Agreement (as applicable); 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" or equivalent pursuant to section 13.2.

Code Amendments and Precedence

1.3 The Interconnected Party may exercise any rights, and is to comply with any obligations, conferred or placed on it by the Code (including by way of references to particular categories of interconnected parties or interconnected parties generally). Where the Code confers rights or places obligations on the Interconnected Party, or this Agreement refers to or incorporates sections or terms of the Code (including those common provisions specified in Schedule Five or Schedule Six of the Code), this Agreement will be deemed to be amended automatically if, when and to the extent those rights or obligations, or sections or terms of the Code (including those common provisions specified in Schedule Five or Schedule Six of the Code) are changed, amended or supplemented in accordance with the Code (including pursuant to section 17 of the Code). At the request of a Party, the other Party shall enter into an agreement which records the relevant changes, amendments or additions to this Agreement accordingly (and each Party shall take such actions and execute such documents as is required to do so) promptly after the date of any such request. In the event of any conflict or ambiguity between a provision of this Agreement (where and to the extent the Code confers rights or places obligations on the Interconnected Party, or this Agreement refers to or incorporates sections or terms of the Code) and the Code, the Code shall prevail. In the event the Code expires or is terminated during the term of this Agreement:

- (a) this Agreement will survive that expiry or termination and continue in full force and effect until the Expiry Date (subject to earlier termination in accordance with section 14); and
- (b) the relevant terms of the Code incorporated into this Agreement 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

1.4 In this Agreement, unless the context otherwise requires:

- (a) "inject" includes to cause or allow Gas to flow at a Receipt Point, and other grammatical forms of "inject" shall be construed accordingly;
- (b) "curtail" includes to reduce, either partly or to zero, to interrupt or to shut or close down;
- (c) any reference to a "quantity of Gas" or an "energy quantity" is a reference to GJ of Gas unless otherwise stated;
- (d) "scm" is a reference to "standard cubic metre", namely a cubic metre of gas at standard temperature and pressure, i.e. 15 °C and 1.01325 bar absolute;

- (e) any reference to "metered quantity" is a reference to the quantity of Gas determined using data obtained from Metering;
- (f) all sections of this Agreement (excluding the definition of Non-Specification Gas and section 6) apply to Non-Specification Gas as if it were Gas;
- (g) headings are for ease of reference only and shall not form any part of the context or affect the interpretation of this Agreement;
- (h) 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;
- (i) a reference to any enactment, regulation, New Zealand Standard, the Code or any section of the Code, is a reference to that enactment, regulation, New Zealand Standard, the Code, or section of the Code, as amended, substituted or replaced from time to time;
- (j) any reference to a document includes all valid amendments, variations or supplements to, or replacements of, such document;
- (k) references to a Party includes its respective successors and permitted assignees;
- (l) the singular includes the plural and vice versa;
- (m) any derivation of a defined term or "inject" or "curtail" shall have a corresponding meaning;
- (n) any reference to a prohibition against doing something includes a reference to not permitting, suffering or causing that thing to be done;
- (o) any reference to a range of sections includes the first and last sections referenced;
- (p) 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);
- (q) a reference to dollars or \$ is a reference to New Zealand Dollars;
- (r) any reference to "includes", "including" or similar shall imply no limitation; and

(s) any reference to "law" includes all statutes, regulations, New Zealand Standards, codes of practice and local authority rules.

2 RECEIPT POINT INTERCONNECTION

Parties' Rights and Obligations

2.1 ~~1.1~~ First Gas will permit connection of the Interconnected Party's Pipeline to First Gas' Pipeline at a Receipt Point, on and subject to the terms and conditions set out in this Agreement.

2.2 ~~1.2~~ Each Party will act as a Reasonable and Prudent Operator when exercising or performing any of its rights, powers, obligations and duties under this Agreement.

2.3 ~~1.3~~ 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.

~~2~~ **TECHNICAL COMPLIANCE**

General

Technical Compliance

2.4 ~~2.1~~ Except as agreed otherwise in writing, the Interconnected Party will ensure that all Receipt Points and Additional Receipt Points comply with ~~Schedules~~ ICA Schedule One and ICA Schedule Two.

2.5 ~~2.2~~ Unless otherwise agreed with First Gas, the Interconnected Party will at its cost operate and maintain all Receipt Points under this Agreement. The Interconnected Party will provide First Gas with a copy of its maintenance records for any Receipt Point or Additional Receipt Point on request (but not more than once per ~~year~~ Year).

Additional Receipt Point(s)

2.6 ~~2.3~~ The Interconnected Party may request ~~an~~ one or more Additional Receipt ~~Point~~ Points at any time during the term of this Agreement. The Parties must execute an Amending Agreement in respect of ~~that~~ any such Additional Receipt Point before First Gas will commence any work in relation to it. The Parties acknowledge and agree that they will determine the content of and may enter into a separate agreement or agreements in relation to the planning, design, construction and connection of the Additional Receipt Point, land access arrangements, and any ancillary matters.

2.7 ~~2.4~~ In relation to any Additional Receipt Point, the Interconnected Party shall:

- (a) consult with First Gas to ensure that the design of that Additional Receipt Point meets its reasonable requirements;
- (b) consider and respond to all reasonable comments or queries from First Gas in relation to compliance with ICA Schedule Two;
- (c) be responsible for obtaining all necessary consents and approvals required;
~~and~~

- (d) unless otherwise agreed with First Gas, design, construct, operate and maintain that Additional Receipt Point at its cost;
- (e) if requested by First Gas pursuant to section 2.8, lease land to First Gas for the purposes of interconnection or Odourisation Facilities pursuant to the Lease; and
- (f) consult with, and have reasonable regard to the views of, First Gas in relation to the planning, construction and commissioning of the Additional Receipt Point.

2.8 ~~2.5~~ In relation to any Additional Receipt Point, First Gas shall:

- (a) use commercially reasonable endeavours to obtain the land and/or property rights it requires in order to connect that Receipt Point to its Pipeline;
- (b) carry out a full risk assessment in accordance with *paragraph 1.1* of ICA Schedule Two, including in relation to:
 - (i) the means of installing any new connection to its Pipeline;
 - (ii) the need for (notwithstanding *section 6*) and means to prevent solid or liquid contaminants from reaching its Pipeline;
 - (iii) the need for and means to prevent over-pressurisation of its Pipeline; and
 - (iv) the possibility of, and means to mitigate, excess Gas flow into its Pipeline;
- (c) submit the risk assessment referred to in *section 2.5.2.8(b)* for review by the certifying authority for its Pipeline and:
 - (i) resolve any concerns ~~that person~~ the certifying authority may have; and
 - (ii) be responsible for and use commercially reasonable endeavours to obtain a modified certificate of compliance for its Pipeline including the Additional Receipt Point;
- (d) be responsible for and use commercially reasonable endeavours to obtain any necessary consents and approvals required in relation to work on its Pipeline;
- (e) be responsible for and use commercially reasonable endeavours to design, construct, operate and maintain any new connection to its Pipeline and any other new facilities forming part of its Pipeline; and
- (f) determine whether Odourisation Facilities are required and, if so, whether it will build, own, operate and maintain them.

2.9 ~~2.6~~ 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

2.10 ~~2.7~~ 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

2.11 ~~2.8~~ In respect of any Receipt Point in operation on the Commencement Date, the Gas-on Date shall be the Commencement Date.

2.12 ~~2.9~~ 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:

- (a) the foregoing requirements of section 2 have been met and commissioning is complete;
- (b) Odourisation Facilities (if required) have been installed and commissioned;
- (c) the Remote Monitoring Equipment is fully operational;
- (d) 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;
- (e) First Gas has received all monies payable (if any) by the Interconnected Party (except where otherwise agreed in writing); and
- (f) 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.

3 INJECTION OF GAS

Injection Pressure

3.1 The Interconnected Party acknowledges and agrees that:

- (a) it is solely responsible for achieving the pressure required to inject Gas at any Receipt Point, up to the MAOP of First Gas' Pipeline;
- (b) ~~apart from the provisions of the Code relating to the Target Taranaki Pressure,~~ except as provided in section 3.2, 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

- (c) it shall not cause the MAOP of First Gas' Pipeline to be exceeded, ~~and, If the Interconnected Party does so, it~~ shall indemnify First Gas for any Loss ~~First Gas may suffer if it does so~~ that First Gas suffers or incurs, including damage to First Gas' Pipeline, any First Gas equipment, any loss of Gas and any claim from a third party.

~~Rate of Injection~~

Target Taranaki Pressure

- 3.2 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, or except as may be required as a result of a Critical Contingency, Force Majeure Event, Emergency or any Maintenance,~~ First Gas will use its reasonable endeavours to:

~~3.3 Section 3.2 will not apply where an Agreed Injection Profile is in effect.~~

- (a) maintain the Target Taranaki Pressure in the 400 line between Oaonui and the Turangi Mixing Station at or near the Bertrand Road Offtake between a lower limit of 42 bar gauge and an upper limit of 48 bar gauge (including, if the Target Taranaki Pressure is outside these limits, to bring the Target Taranaki Pressure back within those limits); and
- (b) manage the Target Taranaki Pressure to be as low as practicable within the specified range while maintaining sufficient Line Pack to meet its obligations under the Code and interconnection agreements.

If necessary in order for First Gas to comply with its obligations under this section 3.2 in relation to maintaining the Target Taranaki Pressure under the upper limit of the Target Taranaki Pressure, First Gas may take gas balancing action or exercise any rights to adjust or curtail any gas flow and/or relevant nominations (including pursuant to section 9). Any proposed change to the specified limits of the Target Taranaki Pressure shall be subject to a Change Request made in accordance with the Code (any such change to the specified pressure limits not to be effective earlier than 12 Months following its approval).

Excessive Flow

- 3.3 ~~3.4~~ 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, If~~ it does so, ~~it~~ the Interconnected Party shall be liable for:

- (a) the cost of any damage to any First Gas Equipment or First Gas' Pipeline;
- (b) the charge determined in accordance with *section 11.11*; and
- (c) any Loss pursuant to *section 11.12*.

Low Flow

3.4 ~~3.5~~ 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~~adversely 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 occurred during plant start-up and shut-down or were extraordinary occurrences and are unlikely to occur again, or that the Metering is Accurate even at those low Gas 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:

- (a) the Interconnected Party shall then implement appropriate modifications as soon as practicable; and
- (b) 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.

Outage Notification

3.5 The Interconnected Party shall as soon as reasonably practicable notify First Gas of any scheduled or unscheduled outages affecting such Interconnected Party in relation to its injection of Gas at the Receipt Point. Such notice shall include:

- (a) whether it is, or is expected to be, a full or partial outage and the likely duration of that outage;
- (b) for scheduled outages, when such outage is expected to commence;
- (c) in a reasonable amount of detail, the reason for that outage; and
- (d) the extent of the expected reduction in the injection of Gas.

4 METERING AND ENERGY QUANTITY REPORTS

Metering Required

4.1 The Metering Owner shall install Metering in respect of Receipt Points as set out in ICA Schedule One and use reasonable endeavours to ensure that it operates at all times. The Metering Owner is to ensure that the design, construction, installation, operation and maintenance of the Metering complies with the Metering Requirements.

Direct Gas Measurement Only

4.2 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

4.3 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 to the other Party:

- (a) reasonable technical information relating to the Metering at a Receipt Point;
- (b) a copy of its planned maintenance schedules relating to any Metering; and
- (c) the results of any testing of any Metering.

and First Gas may publish on OATIS a summary of the results of any testing (whether scheduled or unscheduled) of any Metering.

4.4 In relation to any new Metering, the Metering Owner shall:

- (a) 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
- (b) 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

4.5 The Party who is not the Metering Owner (the *Requesting Party*) may request (including, in the case where First Gas is the Requesting Party, at the request of a Shipper pursuant to the Code) 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~~required to undertake ~~such testing~~any unscheduled test of Metering within ~~1~~one Month ~~of its own~~before or one Month after any scheduled testing or in any event more frequently than once every ~~9~~three Months. The Metering Owner will allow the Requesting Party's representative (or a requesting Shipper's representative) to be present during any unscheduled testing, and provide the Requesting Party (or a requesting Shipper) with the test results as soon as reasonably practicable (and in any event within 5 Business Days of such test results being available to the Metering Owner). Where the Metering is found to be:

- (a) Accurate, the Requesting Party will reimburse the Metering Owner for all direct costs ~~it~~the Metering Owner incurs in undertaking the unscheduled testing; or
- (b) Inaccurate, the Metering Owner shall:
 - (i) bear all costs it incurred in undertaking the unscheduled testing (but not any costs incurred by the Requesting Party or any other party); and
 - (ii) 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

4.6 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 and, where applicable, correct any previously invoiced amounts and apply any Wash-ups in accordance with the Code. If the Party who is not the Metering Owner installs its own check metering at a Receipt Point (which where practicable it shall be entitled to do in its discretion), it shall:

- (a) promptly provide data from that check metering to the Metering Owner on request; and
- (b) retain all data from that check metering for a period of not less than 3 years.

Amendment of Metering Requirements

4.7 First Gas may amend the Metering Requirements at any time ~~but such amended~~ in accordance with the terms of the Metering Requirements ~~(and they shall apply to then existing Metering only if both Parties agree in writing, such agreement not to be unreasonably withheld or delayed~~ thereafter apply as amended).

Access to Data

4.8 The Metering Owner shall, subject to *sections 4.9 to ~~4.12, 4.11~~*, make available to the other Party at a Receipt Point any of the following data (*Data*) ~~that~~ the other Party may request:

- (a) for each meter stream that forms part of the Metering for that Receipt Point:
 - (i) uncorrected volume flow rate at flowing conditions;
 - (ii) corrected volume flow rate;
 - (iii) mass flow rate;
 - (iv) energy flow rate;
 - (v) accumulating (totalising) uncorrected volume;
 - (vi) accumulating (totalising) corrected volume;
 - (vii) accumulating (totalising) mass;
 - (viii) accumulating (totalising) energy;
 - (ix) the pressure and temperature at the meter;
 - (x) density at flowing conditions; and
- (b) in respect of Gas injected at that Receipt Point:
 - (i) Specific Gravity or Relative Density;

- (ii) Base Density;
- (iii) Gross Calorific Value;
- (iv) Nett ~~Calorific Value~~calorific value;
- (v) 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;
- (vi) 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
- (vii) Gas quality information including hydrocarbon dewpoint and water content to the extent available,

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

4.9 Pursuant to *section 4.8*, the Metering Owner shall:

- (a) reasonably determine the source from which any Data is obtained; and
- (b) at its cost make the Data available to the other Party at reasonably located termination points in a non-Hazardous area, and in the manner and in accordance with ~~such~~the frequency, communications protocol and format (including units of measurement) ~~as~~ it may reasonably determine.

4.10 The recipient of Data pursuant to *section 4.8* shall be responsible for conveying that Data to any other location at its cost.

4.11 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.

4.12 ~~Subject to section 4.13, if~~if the Metering Owner upgrades or ~~replacing~~replaces 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~~provides Data in a different format, the Metering Owner shall not be obliged to reimburse any costs incurred by ~~that~~the other Party in order to receive that Data.

Energy Quantity Reports

4.13 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~~ 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

4.14 First Gas will provide the Interconnected Party with access to OATIS:

- (a) to enable the Interconnected Party to view and/or download DDRs and/or HDRs; and
- (b) as required for any other purpose relating to this Agreement or the Code,

provided that the Interconnected Party shall be responsible at its cost for ensuring it can access OATIS and ~~will do~~ does so on the terms and conditions of access to, and use of, OATIS ~~set out on OATIS~~ as set out on OATIS. The Parties acknowledge that from time to time First Gas may not be able to provide access to OATIS where it is unavailable due to any unanticipated technical failure or other events or circumstances outside its control.

5 ENERGY ALLOCATION AT A RECEIPT POINT

Gas Transfer Agreement

5.1 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. Unless an OBA applies, the Interconnected Party shall ensure there is a Gas Transfer Agreement in place in respect of each Receipt Point.

Operational Balancing ~~Agreement~~Arrangement

5.2 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 (including the Primary Balancing Obligation).

5.3 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~~

NQ approval

5.4 ~~If in relation to a Receipt Point and a Day the~~ The Interconnected Party: shall approve, curtail or reject NQs in accordance with the Code.

- ~~(a) plans to, or is undertaking scheduled maintenance or other work; or~~
- ~~(b) 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.~~

~~5.5 The Interconnected party must use the relevant functionality provided on OATIS to request an AIP and may do so in any nominations cycle.~~

~~5.6 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.~~

~~5.7 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.~~

~~5.8 First Gas will approve any requested AIP except where that would:~~

~~(a) require it to curtail any Shipper's:~~

~~(i) request, in the same nominations cycle, for DNC; and/or~~

~~(ii) previously approved DNC or Supplementary Capacity;~~

~~(b) exceed the Physical MHQ of the relevant Receipt Point; or~~

~~(c) unduly increase the risk of breaching an Acceptable Line Pack Limit.~~

~~5.9 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.~~

~~5.10 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.~~

~~5.11 Where it is an OBA Party, an AIP shall not relieve the Interconnected Party of its obligations to:~~

~~(a) manage Shippers' Nominated Quantities in accordance with the Code; and~~

~~(b) comply with its **Primary Balancing Obligation**.~~

6 **GAS QUALITY**

6.1 The Interconnected Party shall 1

- (a) ensure that all gas it injects into the Transmission System complies with the Gas Specification; ~~at its cost~~
- (b) indemnify First Gas for any Loss incurred by First Gas arising out of or in relation to the injection of Non-Specification Gas at a Receipt Point into the Transmission System; and
- (c) monitor, including in accordance with *section 6.10*, the quality of all gas it injects at a Receipt Point (with such monitoring to be at its cost).

Nothing in this Agreement requires First Gas to monitor the quality of gas injected by the Interconnected Party at any Receipt Point.

- 6.2 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

- 6.3 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 at the Receipt Point.
- 6.4 On becoming aware that it has injected or is injecting Non-Specification Gas (including pursuant to *section 6.3*), the Interconnected Party shall (unless otherwise agreed by First Gas) immediately halt further injection of gas until it has investigated the matter and has determined (and shown to First Gas' reasonable satisfaction) that no more Non-Specification Gas will be injected once gas injection recommences.
- 6.5 Where it finds that it did inject, or was injecting, Non-Specification Gas (or suspects that it may have done so), the Interconnected Party shall:
- (a) notify First Gas as soon as practicable, together with the following information:
 - (i) the reason why Non-Specification Gas was injected;
 - (ii) the likely time during which Non-Specification Gas was injected and the estimated quantities of Non-Specification Gas injected; and
 - (iii) 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~~;~~
 - ~~(b) —assist~~ and First Gas will notify this information on OATIS in accordance with the Code;
 - (b) mitigate to the maximum extent practicable ~~to mitigate~~ the effects of any Non-Specification Gas injected (and assist First Gas to do likewise); and

- (c) remedy the cause of the injection of Non-Specification Gas before injecting any further ~~gas~~Gas at that Receipt Point, and take all practicable steps to prevent further injection of Non-Specification Gas.

Demonstration of Gas Quality

- 6.6 The Interconnected Party will maintain in place and good working order adequate facilities, systems, procedures and monitoring to ensure that all gas it injects into the Transmission System complies with the Gas Specification. Upon First Gas’ written request at any time, the Interconnected Party shall promptly demonstrate to First Gas that it has ~~sufficient~~adequate facilities, systems, procedures and monitoring ~~and procedures~~ in place to ensure that all gas it injects ~~at a Receipt Point~~into the Transmission System complies with the Gas Specification. First Gas may publish on OATIS the results of any such demonstration and any associated report of its findings.
- 6.7 If the Interconnected Party fails to comply with *section 6.6* within a reasonable time, First Gas may:
 - (a) require the Interconnected Party to immediately cease injecting gas until it does comply with *section 6.6* (and the Interconnected Party shall do so); and/or
 - (b) subject to the relevant provisions of ~~section 13~~this Agreement, enter that Receipt Point, or any land or 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*.
- 6.8 The Interconnected Party shall pay all First Gas’ reasonable costs incurred in exercising its rights under *section 6.7(b)*.
- 6.9 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

- 6.10 Without ~~limitation~~limiting any other provision in this section 6, the Interconnected Party shall at its cost 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 [\(including by reference to the design and operation of the relevant gas production and processing facility\)](#) that:

- (a) none of the characteristics or components in the above table can exceed; or
- (b) 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 [with First Gas' written approval \(not to be unreasonably withheld or delayed\)](#) measure and/or determine that characteristic or component less frequently than stipulated in the above table, provided [always](#) that its monitoring is sufficient to demonstrate compliance with the Gas Specification.

6.11 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.

6.12 Where it also produces the gas it injects, the Interconnected Party shall [at its cost](#) 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.

6.13 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:

- (a) industry standard equipment and facilities and suitably qualified and competent persons; and
- (b) either the relevant test method [suggested](#)[specified](#) in the Gas Specification or such other method as will produce results that are no less accurate or reproducible.

6.14 The Interconnected Party may determine the value of characteristic (c) in *section 6.10* by calculation from the composition of gas injected, provided that:

- (a) it obtains First Gas' approval (not to be unreasonably withheld); and
- (b) the method it uses is sufficiently accurate to meet the requirements of the Gas Specification.

No Contaminants

6.15 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

6.16 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 a period of 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.

RPO

6.17 The Interconnected Party ~~agrees that~~ acknowledges and agrees that, for the purposes of the definition of "Reasonable and Prudent Operator", this *section 6* and *section 16*, any injection by it of Non-Specification Gas shall constitute a failure by the Interconnected Party to act as a Reasonable and Prudent Operator.

7 ODORISATION

Odorised Pipeline

7.1 If First Gas' Pipeline which connects to a Receipt Point is stipulated as "Odorised" in ICA 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, and the Odorisation Facilities Owner is to use reasonable endeavours to ensure that all gas injected into First Gas' Pipeline shall be odorised accordingly. First Gas will specify the odorant that must be used.

Ownership of Odorisation Facilities

7.2 ~~In respect of any~~ If First Gas' Pipeline which connects to an Additional Receipt Point ~~on an Odorised Pipeline, is stipulated as "Odorised" in the Amending Agreement, then Odorisation Facilities must be constructed and commissioned in respect of that Additional Receipt Point before any gas is injected.~~ First Gas may elect, but shall not be obliged, to own the required Odorisation Facilities. If First Gas elects not to own the Odorising Facilities, then they shall be owned by the Interconnected Party. The design, construction, operation and maintenance of Odorisation Facilities shall be the responsibility of the owner of the Odorisation Facilities.

Land for Odourisation Facilities

- 7.3 Where First Gas elects to own Odourisation 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 Odourisation Facilities. The Interconnected Party will grant First Gas a bare licence to [access](#), 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 Odourisation Facilities, free of any charge.
- 7.4 When undertaking any of the activities referred to in *section 7.3*, First Gas shall comply with the requirements of *section 13.2*.

Odourisation Facilities

- 7.5 The Odourisation Facilities may [\(and, where First Gas so directs, shall\)](#) include:
- (a) an odorant storage vessel not exceeding 5 cubic metres capacity;
 - (b) a primary means of odorisation (e.g. an odorant injection pump);
 - (c) a control system to regulate the injection of odorant;
 - (d) a secondary means of odorisation in case the primary means fails;
 - (e) an internally-bunded shelter for the items in *sections 7.5(a) to (d)*;
 - (f) a flare system in a non-Hazardous area to safely dispose of odorant vapour; and
 - (g) a suitably sealed and bunded area where odorant is off-loaded in bulk from a vehicle to the odorant storage vessel.

Services to Odourisation Facilities

- 7.6 Where First Gas owns the Odourisation Facilities, the Interconnected Party shall provide ~~#~~First Gas with the services it reasonably requires [for the operation of the Odourisation Facilities](#), free of any charge, including:
- (a) 24 Volt DC and 230 Volt AC power supplies;
 - (b) a suitable signal representing the flow rate or quantities of Gas to be odorised;
 - (c) a supply of Gas at a pressure not exceeding 10 bar gauge;
 - (d) a water supply adjacent to the shelter referred to in *section 7.5(e)* suitable for a personnel safety shower;
 - (e) suitable cabling and any related facilities to convey the data referred to in *section 7.7* to the Remote Monitoring Equipment,
- [in each case](#) at agreed termination points at the boundary of the Odourisation Facilities. The Interconnected Party shall also provide reasonable all-weather access

to the Odourisation Facilities for vehicles and personnel for the purposes of *section 7.3*. [Where the Interconnected Party owns the Odourisation Facilities, the Interconnected Party shall itself provide the services listed above at its cost.](#)

Remote Monitoring of Odourisation Facilities

- 7.7 Irrespective of whether it owns any Odourisation Facilities, the Interconnected Party shall enable First Gas to remotely monitor:
- (a) the status or availability of the primary means of odourisation including, where that is an odourant injection pump, direct indication of operation such as stroke rate or speed;
 - (b) odourant flow rate and/or the volumes of odourant being injected;
 - (c) odourant storage vessel inventory or liquid level;
 - (d) odourant storage vessel vapour space pressure and the status of any pressure-relief device;
 - (e) the Gas supply pressure to the Odourisation Facilities;
 - (f) the electricity supply to the Odourisation Facilities;
 - (g) the operating status of the odourant vapour flare; and
 - (h) any alarm conditions and other parameters it reasonably considers to be relevant.

No Injection Without Odourisation

- 7.8 The owner of Odourisation Facilities will use reasonable endeavours to maintain odourisation at all times.
- 7.9 Where a Party becomes aware that odourisation has failed, it will notify the other Party immediately. For the purposes of this *section 7.9*, a failure of odourisation shall include excessive odourisation as well as a total or partial failure of odourisation.
- 7.10 The Interconnected Party shall [not inject or](#) cease injecting Gas as soon as practicable on becoming aware of (or being informed of) any odourisation failure. The owner of the Odourisation Facilities will investigate and restore normal odourisation as soon as practicable, whereupon the Interconnected Party may resume injecting Gas.
- 7.11 Notwithstanding any other provision of this Agreement, First Gas may cease odourising [\(or cease requiring the odourisation of\)](#) 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.

8 HEALTH AND SAFETY

- 8.1 At any Receipt Point, each Party shall (as applicable) ensure that its personnel:

- (a) comply with all applicable health and safety law;
- (b) comply with its own and other Party's health and safety plan, as provided to each Party, and cooperate with such other Party in relation to its health and safety plan and ensure that their respective health and safety plans and activities are coordinated where they both access or use the same site;
- (c) 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;
- (d) 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:
 - (i) written details of the incident;
 - (ii) a copy of any notice given to the relevant authority; and
 - (iii) details of steps taken or to be taken to eliminate or minimise any risk associated with that incident; and
- (e) provide all information and assistance reasonably requested by the other Party to ensure that no harm comes to any persons.

8.2 For the ~~purpose~~purposes 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.

9 CURTAILMENT

Adverse Events

9.1 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. However, 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:

- (a) an Emergency is occurring or is imminent;
- (b) a Force Majeure Event has occurred or is continuing;
- (c) a Critical Contingency would otherwise occur;
- (d) a Shipper's GTA expires or is terminated or is not executed (and no OBA is in place), or a Shipper is otherwise not entitled to receive Gas at or in respect of that Receipt Point; ~~or~~
- (e) this Agreement expires or is terminated, either in total or in relation to that Receipt Point;

(f) it is performing, or is to perform, scheduled or unscheduled Maintenance pursuant to section 9.2 or section 9.3; and/or

(g) it does so to maintain the Target Taranaki Pressure pursuant to this Agreement and/or section 3.33 of the Code,

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

9.2 Where it ~~requires~~ is necessary or desirable for First Gas to carry out scheduled Maintenance that will curtail the Interconnected Party's ability to inject Gas (but not in respect of any scheduled Maintenance which it believes will not have that effect), First Gas will:

- (a) 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;
- (b) advise the Interconnected Party of the expected impact on its ability to inject Gas at that Receipt Point and/or any other effects; and
- (c) consult the Interconnected Party and use reasonable endeavours to undertake that scheduled Maintenance in a manner and at an agreed time; and (d) ——— minimise the period of any curtailment a time that minimises its impact.

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.

9.3 First Gas may carry out unscheduled Maintenance at or in relation to a Receipt Point, including in relation to events referred to in *section 9.1(a), (b) or (c)*, but must give the Interconnected Party as much notice as reasonably practicable in each case.

9.4 The Interconnected Party shall reasonably facilitate First Gas' scheduled or unscheduled Maintenance, as and when requested by First Gas, including using reasonable endeavours to flow small quantities of Gas in the manner requested by First Gas.

Interconnected Party maintenance

9.5 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:

- (a) give First Gas as much notice as practicable (and in any event not less than 20 Business Days' notice unless operational circumstances do not permit such period of notice) before commencing that maintenance or other work; ~~and~~
- (b) advise First Gas of the likely duration of that maintenance or other work and the extent of the expected reduction (or increase) in its injection of Gas;

- (c) unless otherwise agreed by First Gas (having regard to the usual quantity of Gas injection by the Interconnected Party), provide to First Gas at the same time as it provides notice to First Gas under section 9.5(a) shut-down and start-up gas profiles for the duration of the maintenance or other work; and
- (d) if the shut-down or start-up gas profiles previously provided to First Gas materially change (or are expected to materially change), the Interconnected Party shall promptly provide First Gas with a further notice specifying the changed shut-down and start-up gas profiles.

Operational Flow Order

- 9.6 If any of the events described in *section 9.1(a)* to ~~(eg) occurs~~occur, First Gas may give the Interconnected Party an Operational Flow Order, ~~which the~~ The Interconnected Party shall use its best endeavours to take such actions as it is able to take to comply with that OFO 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 as soon as practicable.
- 9.7 If the Interconnected Party is a ~~Gas~~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 to be injected. 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

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

Critical Contingency

- 9.9 In the event of a Critical Contingency, First Gas may instruct 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 and the requirements of the CCM Regulations (and the Interconnected Party shall do so). OFOs are to be consistent (or amended to be consistent) with any instructions from the Critical Contingency Operator (including any shut down profile required by the Critical Contingency Operator).

Failure to Comply

- 9.10 The Interconnected Party agrees that if it fails to comply with an OFO in accordance with section 9.6:
- (a) First Gas may curtail the Interconnected Party's injection of Gas itself; ~~and~~
 - (b) for the purposes of the definition of "Reasonable and Prudent Operator", this section 9 and section 16, any such failure shall constitute a failure by the Interconnected Party ~~shall be deemed not to have acted to act~~ as a Reasonable and Prudent Operator; and

- (c) the Interconnected Party 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 to the fullest extent reasonably practicable).

Relief from Charges

- 9.11 In relation to any curtailment under *section 9.1(a) to (c)* or *section 9.2*, the Interconnection Fee and the Odourisation 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:
- (a) caused or contributed to any event or circumstance giving rise to that curtailment, including in the circumstances referred to in *sections 3.43.3* or *3.53.4*;
 - (b) was itself carrying out maintenance or other work ~~to the extent~~such that its ability to inject Gas was ~~less than~~(or would have been) reduced to or less than the level of Gas injection that was (or would otherwise have been) available given the curtailment; and/or
 - (c) failed to comply with an instruction from First Gas ~~under section 9.6~~ or from the Critical Contingency Operator under section 9.6 or section 9.9.

10 PRUDENTIAL

- 10.1 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~~26 Months following expiry or termination of this Agreement, the Interconnected Party must, at its election, comply with one of the following:
- (a) hold an acceptable credit rating in accordance with *section 10.2*; or
 - (b) 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*:
 - (i) an unconditional payment guarantee or letter of credit in favour of First Gas; or
 - (ii) an unconditional third party payment guarantee in favour of First Gas; or
 - (iii) a security bond in favour of First Gas.
- 10.2 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~~an 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~~that credit rating).

- 10.3 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*).
- 10.4 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) together with an amount reasonably determined by First Gas (including to protect the interests of other users of the Transmission System) which reflects the unrecovered capital cost to First Gas to construct and commission its equipment and facilities at or in respect of the relevant Receipt Point, provided that either Party may review that amount (though not more frequently than quarterly) and require it to be adjusted up or down.
- 10.5 The Interconnected Party shall as soon as ~~reasonably~~ practicable notify First Gas if:
- (a) the Interconnected Party ceases to comply with *section 10.1*;
 - (b) 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;
 - (c) a third party ~~security~~Credit Support provider (upon which its current satisfaction of the prudential requirements in this *section 10* ~~is dependent~~depends) ceases to hold an acceptable credit rating in terms of *section 10.1*; or
 - (d) either it, or the third party Credit Support provider, is placed on negative credit watch.
- 10.6 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~~other than ~~for manifest error or~~ as a result of an ~~invoice dispute or dispute~~Invoice Dispute) then on the expiry of 5 Business Days' prior written notice from First Gas, without limiting any other right it may have under this Agreement, First Gas may:
- (a) make a claim under any Credit Support to the extent payment is due and the Interconnected Party shall procure that payment;
 - (b) require Credit Support from the Interconnected Party, if Credit Support has not already been provided;
 - (c) require a change to the type of Credit Support provided; and/or

- (d) require an increase in the level of Credit Support held for the Interconnected Party.
- 10.7 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.
- 10.8 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.
- 10.9 If this Agreement is terminated, First Gas will release any associated ~~security~~ Credit Support when and to the extent that the Interconnected Party has paid all outstanding amounts under this Agreement.

11 FEES AND CHARGES

Interconnection and Odourisation Fees

- 11.1 The Interconnected Party is to pay the Interconnection Fee and Odourisation Fee for each Receipt Point (as applicable) during the term of this Agreement in accordance with this Agreement. Where, in respect of a Receipt Point and/or Odourisation Facilities in operation on the Commencement Date, an ~~Interconnection-Fee~~ interconnection or odourisation or termination fee or charge:
- (a) has not previously been payable, First Gas will not charge ~~any such fee~~ an Interconnection Fee or Odourisation Fee or Termination Fee (as applicable) during the term of this Agreement, except to the extent that Receipt Point becomes an Additional Receipt Point or new Odourisation Facilities are constructed; or
- (b) is payable, that ~~fee~~ interconnection or odourisation or termination fee or charge, together with the procedure for adjusting or redetermining it, will be as recorded in ~~Schedule One~~ ICA Schedule One (and such fees shall be payable as an Interconnection Fee, Odourisation Fee and/or Termination Fee (as applicable) from the Commencement Date).
- 11.2 In respect of any Additional Receipt Point, First Gas shall determine how it will recover its costs to design, construct, operate and maintain, and for 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 11.1~~ and the other applicable provisions of this Agreement.
- 11.3 If ~~it~~ First Gas owns, or elects to own, Odourisation Facilities and recover its costs to design, construct, operate and maintain them via a separate Odourisation Fee (and, if applicable, a Termination Fee) payable by the Interconnected Party, First Gas may determine that fee (and any associated Termination Fee) ~~as described in this section 11.1~~ in accordance with this section 11 and the other applicable provisions of this Agreement (which are to apply mutatis mutandis to the determination of such fees).

Determination of Fees

- 11.4 In respect of an Additional Receipt Point and/or any Odourisation Facilities owned or to be owned by First Gas, First Gas shall set out provisional Interconnection ~~and~~ Fees and Odourisation Fee (and any associated Termination Fees in respect of such Additional Receipt Point and/or any Odourisation Facilities) 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 ~~(and/or any Odourisation Facility (in each case, Estimated RP-Cost))~~. Such provisional fees shall, subject to section 11.5, be payable in accordance with the terms of this Agreement.
- 11.5 Subject to *sections 11.6 and 11.7*, no later than 6 Months after the Gas-On Date for an Additional Receipt Point and/or any Odourisation Facilities, First Gas shall determine confirmed Interconnection Fees, Odourisation Fees and any respective Termination Fees for each Year or part thereof 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 ~~(and/or any Odourisation Facilities (in each case, 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 or part thereof until the Expiry Date, which shall replace the provisional fees set out in the Amending Agreement. The amendments to ICA Schedule One in respect of the Additional Receipt Point and/or Odourisation Facilities given effect to by the Amending Agreement shall be deemed to be updated to reflect such Actual Cost and the confirmed fees determined by First Gas in accordance with this section 11.5. First Gas shall, in its next invoice, debit or credit the Interconnected Party (as the case may be) for the difference between the aggregate amount paid by it based on the provisional Interconnection Fee and Odourisation Fee (as applicable) and the aggregate amount ~~it that~~ would have ~~paid~~ been payable based on the confirmed Interconnection Fee and Odourisation Fee (as applicable) in respect of the prior Months during which the provisional fees applied.
- 11.6 With effect from the first Reset Date after the Gas-on Date for any such Additional Receipt Point and/or any Odourisation Facilities and every subsequent Reset Date until the Expiry Date, First Gas will re-determine the Interconnection Fees, Odourisation Fees and any applicable 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). The amendments to ICA Schedule One in respect of the Additional Receipt Point and/or Odourisation Facilities given effect to by the Amending Agreement shall be deemed to be updated to reflect the new fees notified by First Gas. No adjustment to any amounts previously paid by the Interconnected Party shall be required after any re-determination of Interconnection Fees or Odourisation Fees.
- 11.7 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 the Commencement Date or the execution of the relevant Amending Agreement (as applicable), First Gas may re-determine the Interconnection Fees,

Odourisation Fees and the Termination Fees to reflect any actual and reasonable costs it expects to incur as a result of those modifications. First Gas shall notify any re-determined fees to the Interconnected Party and they shall apply in respect of this Agreement accordingly.

- 11.8 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 Odourisation Facilities. First Gas will round up all Interconnection Fees, Termination Fees and Odourisation Fees to the nearest dollar per Day.
- 11.9 ~~Interconnected~~Interconnection Fees and any Odourisation 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) pursuant to *section 14*, provided that if First Gas gives notice under *section 7.11*, the relevant Odourisation Fee shall cease to be payable on expiry of the required notice period and no Termination Fee (if and to the extent applicable) shall ~~be~~ be payable in respect of those Odourisation Facilities.

OBA Charges

- 11.10 ~~To the extent it is~~For any Receipt Point at which an OBA ~~Party applies~~, the Interconnected Party shall be liable for and shall pay to First Gas:

- (a) Balancing Gas Charges; ~~and~~
- (b) charges for Excess Running Mismatch; and
- (c) Peaking Charges.

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

Over-Flow Charge

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

$$\text{Fee} \times \text{OFQ} \times 20$$

where:

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

OFQ; (or the Over-Flow Quantity_T) is the greater of:

- (i) the Hourly metered quantity – Physical MHQ; and
- (ii) zero.

Excessive Flow Causing Loss

11.12 In addition to any Over-Flow Charge, Peaking Charge and/or amount payable under section ~~3.4(a) it may be liable to pay~~ 3.3(a), the Interconnected Party shall indemnify First Gas for any Loss incurred by First Gas that arises from ~~its~~ the Over-Flow or Excess Peaking (where that Loss shall include any ~~Interconnection Fees~~ interconnection fees or charges, Transmission Charges and/or Non-standard Transmission Charges ~~which~~ that 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 to the fullest extent reasonably practicable. ~~The Interconnected Party shall:~~

~~(a) not be relieved of liability under the indemnity in this section 11.12; and~~

~~(b) be deemed not to have acted as a Reasonable and Prudent Operator,~~

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

Balancing Gas Credits Receivable as an OBA Party

11.13 ~~To~~ If the ~~extent it~~ Interconnected Party is an OBA Party in respect of a Receipt Point, First Gas will credit the Interconnected Party in accordance with the Code: ~~(a) any~~ Balancing Gas Credits due to it; ~~and,~~

~~(b) a share of the total Excess Running Mismatch Charges payable by all Receipt Point OBA Parties in respect of the previous Month, equal to:~~

$$ERM_{COBRP} \times MQ_{IP} \div \sum MQ_{OBRP}$$

~~where:~~

~~ERM_{COBRP} is the aggregate of the charges for Negative ERM and Positive ERM payable by all OBA Parties at Receipt Points that Month;~~

~~MQ_{IP} is the aggregate of the metered quantities for that Month of all Receipt Points under this Agreement at which an OBA applies; and~~

~~∑MQ_{OBRP} is the aggregate of the metered quantities for that Month of all Receipt Points at which an OBA applies.~~

12 INVOICING AND PAYMENT

Timing

12.1 First Gas shall invoice the Interconnected Party in respect of the previous (and any prior) Month, on or before:

(a) the 10th Day of each Month for the Charges ~~(if any)~~ and any other amounts payable by the Interconnected Party under this Agreement (excluding ~~Balancing Gas~~ OBA Charges); and

(b) the 14th Day of each Month (or as soon thereafter as is practicable), for the ~~Balancing~~ OBA Charges payable (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

- 12.2 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

- 12.3 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

- 12.4 First Gas may issue any invoice (together with any supporting information) under *section 12.1* by:
- (a) e-mailing to the Interconnected Party's e-mail address most recently (and specifically) notified in writing to First Gas; and/or

- (b) posting the invoice as one or more PDF files on OATIS [accessible only by the Interconnected Party](#).

Payment by the Interconnected Party

- 12.5 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:

- (a) the 20th Day of the Month in which the invoice is issued [\(or, if such Day is not a Business Day, the next Business Day\)](#); and
- (b) 10 ~~Business~~ Days after the invoice is issued [\(or, if such Day is not a Business Day, the next Business Day\)](#).

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

- 12.6 ~~Subject to section 12.7, if~~ [if](#) the Interconnected Party ~~disputes~~ [wishes to dispute](#) any invoiced amount under ~~section 12.1~~ [12.1](#) (*Invoice Dispute*), the Interconnected Party

shall, within 10 Business 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. Where either Party has to pay money to the other Party as a result of the determination of an Invoice Dispute, then in addition to such payment, interest shall be payable on the amount payable from the due date for payment until the date such payment is made, at a rate equal to the Bill Rate plus 2% per annum, calculated on a Daily basis (compounded Monthly).

- 12.7 ~~In the absence of any manifest error,~~Except to the extent provided in section 12.6, the Interconnected Party shall pay each invoiced amount in full in accordance with *section 12.5* without any withholding, deduction or set-off of any kind.

Incorrect Invoices

- 12.8 If it shall be found at any time that the Interconnected Party has been overcharged or undercharged then, within ~~30~~20 Business 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 issue a credit note or debit note (where required) and 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~~26 Months ~~has~~have elapsed since the date of the invoice.

Default Interest

- 12.9 Where the Interconnected Party defaults without ~~reasonable~~lawful 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).

13 ACCESS RIGHTS

Grant of Rights

- 13.1 The Interconnected Party grants First Gas a right to access a Receipt Point (including any Odourisation Facilities as applicable) on the terms set out in this *section 13* to the extent necessary for First Gas to:
- (a) carry out Maintenance on First Gas' Pipeline and any First Gas Equipment; and /or
 - (b) exercise any right First Gas may have under this Agreement.

Exercise of Rights

- 13.2 The following procedures apply to the exercise of the rights of access conferred by *section 13.1*:

- (a) 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~~having completed the set of competency requirements created by the Gas Association of New Zealand and /or 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;
- (b) 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;
- (c) 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;
- (d) First Gas will give the Interconnected Party at least 48 hours' written notice of its requirement for a Work Permit, ~~and specify why it~~ (and such Work Permit will be issued within that time period unless there is good reason that it should not be so issued). Such notice of requirement is to specify why First Gas requires access to a Receipt Point. The Interconnected Party shall not unreasonably withhold or delay its consent to any request for a Work Permit;
- (e) 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)*;
- (f) 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;
- (g) except where an Interconnected Party representative is present, Approved Persons shall notify the Interconnected Party both when they enter and leave a Receipt Point;
- (h) the Interconnected Party may temporarily withdraw or suspend any Approved Person's access to a Receipt Point for work to be undertaken in the ordinary course at any time and without notice during an Emergency (including when undertaking ~~maintenance~~Maintenance or other work required due to an Emergency), Force Majeure Event and/or Critical Contingency; and
- (i) notwithstanding any other provision of this *section 13.2*, to respond to or address an Emergency and/or Critical Contingency, First Gas will not be required to give the Interconnected Party prior written notice or obtain a Work Permit before entering a Receipt Point and appropriately qualified persons other than Approved Persons may access a Receipt Point.

14 TERM AND TERMINATION

14.1 ~~This~~The term of this Agreement will commence on the ~~later of [] and the date it is signed by both Parties~~ (Commencement Date).

14.2 This Agreement will expire on the earlier of:

- (a) 30 September []; or
- (b) in respect of an individual Receipt Point, the date determined pursuant to *section 14.3* or *section ~~14.6, 14.7~~*, or the date on which the relevant Lease (if any) expires or is terminated,

(Expiry Date).

Early Termination of Receipt Point

14.3 The Interconnected Party may terminate this Agreement in respect of a particular Receipt Point at the end of any Year provided that it:

- (a) notifies First Gas in writing not later than ~~1 December in that~~three Months before the end of such Year; and
- (b) pays First Gas, prior to the end of that Year:
 - (i) the aggregate Interconnection Fee (if any) and the aggregate Odourisation Fee (if any) for the remainder of the current Year in accordance with this Agreement; and
 - (ii) the Termination Fee(s) payable where termination occurs in such Year (if any),

whereupon the relevant part or page of ICA Schedule One ~~shall be deemed deleted from this Agreement that applies in respect of such Receipt Point shall no longer apply (provided the foregoing requirements have been timely complied with by the Interconnected Party).~~

Termination for ~~cause~~breach

14.4 Either ~~party~~Party may terminate this Agreement immediately on notice in writing to the other Party specifying the cause, ~~if 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 20 Business Days of notice from the terminating Party.~~

Other termination

14.5 Either Party may terminate this Agreement immediately on notice in writing to the other Party specifying the cause if:

- (a) 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 more

than 10 Business Days and has not remedied that default within 20 Business Days of notice from the terminating Party; or

- (b) the Interconnected Party fails to comply with the prudential requirements set out in *section 10* for a period of 60 Business Days and has not remedied that default within 20 Business Days of notice from the terminating Party; or ~~(e) — 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~~
- (c) ~~(d)~~ 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
- (d) ~~(e)~~ 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
- (e) ~~(f)~~ a Force Majeure Event occurs ~~such that~~ and the other Party could not ~~reasonably~~ be expected to be in a position to perform its obligations under this Agreement ~~within one Year~~ for a period of six Months or more.

Suspension for Default

14.6 ~~14.5~~ If First Gas becomes aware that 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 or their use of the Transmission System.

Uneconomic Use

14.7 ~~14.6~~ Subject to ~~section 14.7,~~ 14.8, 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~~ if:

- (a) the Interconnected Party does not commence injecting Gas within 6 Months of the Gas-on Date; or
- (b) at any time after the Gas-on Date the Interconnected Party fails to inject Gas for a continuous period of 12 Months or more.

14.8 ~~14.7~~ First Gas will not terminate this Agreement pursuant to ~~section 14.6,~~ 14.7 in respect of any Receipt Point in respect of which the Interconnected Party:

- (a) continues to pay First Gas' Interconnection Fee and ~~or~~ Odourisation Fee; or
- (b) agrees, where no such Interconnection Fee and/or Odourisation Fee has previously been payable, to commence paying such fees (as determined and notified by First Gas (acting reasonably)).

provided that those Interconnection Fees and/or Odourisation 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

14.9 ~~14.8~~ Where First Gas is the terminating Party, it may:

- (a) isolate or disconnect its Pipeline from any Receipt Point;
- (b) remove any First Gas Equipment, including any Odourisation Facilities, and First Gas' Pipeline from any Receipt Point;
- (c) 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 and~~ First Gas ~~may invoice the Interconnected Party accordingly pursuant to section 12.~~

14.10 ~~14.9~~ Where the Interconnected Party is the terminating Party, it may:

- (a) isolate any Receipt Point and/or its Pipeline from First Gas' Pipeline;
- (b) 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

14.11 ~~14.10~~ The expiry or termination of this Agreement shall not relieve the Interconnected Party:

- (a) or First Gas of its obligation to pay any amount outstanding under this Agreement; or
- (b) if it was an OBA Party, of its obligation to settle its Running Mismatch in accordance with the Code or this Agreement, which, at First Gas' election but following consultation with the Interconnected Party, may be effected either in dollar terms or by First Gas making Gas available for the Interconnected Party to take, or taking Gas from, the Interconnected Party.

Effects of Termination

14.12 ~~14.11~~ Termination, suspension or expiry of this Agreement shall not prejudice any rights or obligations of ~~the Parties~~ a Party that existed prior to termination, suspension or expiry.

~~14.12~~ 14.13 The provisions of this Agreement shall 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.

15 FORCE MAJEURE

15.1 Notwithstanding the other provisions of this Agreement, but subject to *section 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 of its obligations ~~imposed on it by~~ under this Agreement (*Affected Party*).

15.2 ~~Notwithstanding section 15.1, a~~ Force Majeure Event shall not relieve an Affected Party from liability:

- (a) to pay money due under, or in connection with, this Agreement; or
- (b) to give any notice which it may be required to ~~be given pursuant to this Agreement~~ give (other than a notice via OATIS where OATIS is affected by such Force Majeure Event)
- (c) if it is an OBA Party, for any Mismatch and Running Mismatch that may arise out of or in connection with, or before, during or after, the Force Majeure Event,

provided that the Interconnected Party shall be relieved of its obligation to pay any Interconnection Fee and Odourisation 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).

15.3 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:

- (a) 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 known to it at that time. The notice shall also contain an estimate of the period of time required to remedy such failure;
- (b) 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;
- (c) ~~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

- (d) 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.

15.4 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 Affected Party.

15.5 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

15.6 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~~ setting out in reasonable detail the particulars 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 (or a summary of it) on OATIS.

16 LIABILITIES

Exclusion from a Party's Liability

16.1 Subject to any further limitations contained in this *section 16*, a Party (*Liabe 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 (whether in contract, tort (including negligence) or generally at common law, equity or otherwise), except to the extent that that Loss arose from an act or omission of the Liabe 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 Liabe 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 Liabe Party shall not be liable to the extent that the Other Party has not ~~used reasonable endeavours to mitigate its Loss~~ mitigated its Loss to the fullest extent reasonably practicable.

Limitation of a Party's Liability

16.2 If the Liabe 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 (whether in contract, tort (including negligence) or generally at common law, equity or otherwise), other than for payment of amounts due pursuant to *section 11*, the Liabe Party will only be liable for direct Loss suffered or incurred by the Other Party excluding (and the Liabe Party shall not be liable for):

- (a) any loss of use, revenue, profit or savings by the Other Party;
- (b) the amount of any damages awarded against the Other Party in favour of a third party, except where the Liabe Party is liable to make a payment under *section 11.12* or section 6.1; and

- (c) 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~~ section 11.12 or section 6.1.

16.3 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

16.4 Subject to ~~section 16.5~~, sections 16.5 to 16.8, 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)~~ :

(a) in relation to any single event or series of related events, \$12,500,000; and

(b) in any Year, \$37,500,000, irrespective of the number of events in that Year.

For the purposes of this section 16.4, an event is part of a series of related events only if that event or events factually arise from the same cause. The limitations in this section 16.4 shall not apply in respect of or include the payment of any Charges or OBA Charges.

16.5 The amounts referred to in section 16.4(a) and (b) shall each be adjusted annually on 1 October of each Year by multiplying each Capped Amount for the previous Year by the following adjustment factor:

$$\text{Adjustment Factor} = \frac{\text{CPI}_n}{\text{CPI}_{(n-1)}}$$

where:

CPI_n means the most recently published CPI Index for the June quarter in the preceding Year; and

CPI_(n-1) means the most recently published CPI Index for the June quarter in the Year that is 2 years prior to the Year in which the adjustment is being made.

The adjusted Capped Amounts calculated pursuant to this section 16.5 shall be rounded to the nearest whole number.

The adjusted Capped Amounts shall not be retrospectively adjusted in the event the Government Statistician (or his/her replacement as the case may be) later revises the previously published values of the CPI Index.

The first adjustment will take place on 1 October in the Year following the first Year of this Agreement.

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

16.6 ~~16.5~~ Where:

- (a) First Gas is the Liable Party; and
- (b) First Gas' liability is or may be wholly or partially caused or contributed to by a breach of any ~~other interconnection agreement~~Interconnection Agreement or any TSA by one or more ~~third parties~~Interconnected Parties or Shippers (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~~received by First Gas in payment from any such Liable Third Party (including under any indemnity from the Liable Third Party) in respect of any such breach by the Liable Third Party which gave rise to such liability for First Gas (less any reasonable costs and expenses, including legal costs and expenses on a solicitor and own client basis, incurred by First Gas in connection with pursuing any such recovery) 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). First Gas is to use its reasonable endeavours to pursue and seek recovery from the Liable Third Party of any damages payable to First Gas as a result of a breach by the Liable Third Party of the relevant TSA and/or ICA.

16.7 ~~16.6~~ Where:

- (a) First Gas is the Liable Party; and
- (b) First Gas is or may be liable to one or more ~~interconnected parties~~Interconnected Parties under any other ~~interconnection agreement~~Interconnection Agreement and/or Shippers under any TSA (each such ~~interconnection agreement~~Interconnection Agreement or TSA being a *Coincident Agreement*); and
- (c) the sum of First Gas' liability (including under any indemnity) to the Interconnected Party and to any other ~~interconnected parties~~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.

16.8 ~~16.7~~ Where the Liable Party is not First Gas, the maximum aggregate liability of the Liable Party to First Gas under this Agreement ~~or~~and any *Coincident Agreements* shall not exceed the Capped Amount.

General

16.9 ~~16.8~~ 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.

16.10 ~~16.9~~ 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~~

16.11 ~~16.10~~ If First Gas is the subject of a claim by a Shipper or ~~third party (the Claimant)~~ any Interconnected Party 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:

- (a) First Gas shall immediately give notice of the claim to the Interconnected Party;
- (b) 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)*;
- (c) 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:
 - (i) 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
 - (ii) 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~~ 16.11(c) (other than allowing a defence in First Gas' name) in circumstances where First Gas has reasonable grounds to refuse such assistance;

- (d) if the Interconnected Party elects to defend a claim under *section* ~~16.10~~ 16.11(c) then it may choose its own counsel for its defence. The costs of counsel will be met by the Interconnected Party;

- (e) 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~~16.11(c)(i); and
- (f) the Interconnected Party shall not be required to make any payment in respect of any claim under this ~~section 16.10~~16.11 based on a contingent liability until the contingent liability becomes an actual liability and is due and payable.

~~16.11 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:~~

~~(a) 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:~~

~~(i) 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~~

~~(ii) 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 such assistance;~~

~~(b) 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;~~

~~(c) 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;~~

~~(d) 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~~

~~(e) 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)~~.~~

16.12 The Interconnected Party shall not make any claim, demand or commence proceedings directly against any Shipper or another Interconnected Party in relation to that Shipper's or other Interconnected Party's breach of its TSA or ICA (as applicable) 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~~ a TSA or ICA. 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, GTA or Allocation Agreement.

16.13 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 any 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 if applicable.~~

16.14 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.

16.15 For the purposes of this *section 16*, any reference to:

- (a) a TSA shall include a reference to any Supplementary Agreement, Existing Supplementary Agreement or Interruptible Agreement (and a reference to a Shipper shall include a reference to a shipper under any such agreement);
- (b) a breach of, or liability under, a TSA shall include any breach of, or liability under, a Supplementary Agreement, Existing Supplementary Agreement or Interruptible Agreement;
- (c) an ICA or Interconnection Agreement shall include a reference to this Agreement, any Existing Interconnection Agreement and any other interconnection agreement (and a reference to an Interconnected Party shall include a reference to an interconnected party under any such agreement); and
- (d) a breach of, or liability under, an ICA or Interconnection Agreement shall include any breach of, or liability under, this Agreement, any Existing Interconnection Agreement and any other interconnection agreement.

17 REGULATORY CHANGE

17.1 If a Party (Submitting 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 of those~~ changes (a *Regulatory Change Request*).

- 17.2 ~~Neither~~The other Party (*Approving Party*) will not withhold approval of any Regulatory Change Request submitted by the ~~other~~Submitting Party, so long as:
- (a) the changes requested are reasonably necessary to enable the Submitting 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;
 - (b) the Approving Party is technically and operationally capable of implementing the associated changes;
 - (c) any costs to be charged to ~~the Interconnected~~either Party ~~under~~pursuant to the Regulatory Change Request are reasonable in the circumstances; and
 - (d) the Regulatory Change Request is otherwise reasonable.

17.3 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.

17.4 The Parties shall enter into and execute an amendment or variation agreement in respect of this Agreement which records and gives effect to an approved Regulatory Change Request.

18 ~~DISPUTES~~DISPUTE RESOLUTION

18.1 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.

18.2 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:

- (a) resolution by an independent expert agreeable to both parties; or
- (b) 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).

18.3 The arbitration will be conducted by an arbitrator appointed:

- (a) jointly by the Parties; or
- (b) 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.

- (ii) if sent after ~~4.00 p.m.~~ 1600 on any Business Day, shall be deemed served on the next Business Day.

except in the case of a notice given under section 15.3, which shall be deemed served at the time received by the recipient; or

- (b) ~~(e)~~ by registered mail shall be deemed served on the earlier of the date of receipt or on the second Business Day after the ~~same~~ notice was committed to post.

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

Confidential Information and Disclosure of Agreement

19.3 Subject to section 19.4 and section 19.5, each Party shall keep confidential and not disclose any information made available to it by, on behalf of, or at the request of, the other Party in relation to this Agreement or that relates to the business or operations of such other Party.

19.4 A Party may disclose such information to the extent that:

- (a) the information is in the public domain, other than by a breach of this Agreement by such Party;
- (b) the information was already known to the Party and was not then subject to any obligation of confidentiality;
- (c) disclosure to such Party's professional advisor(s) or consultant(s) on a need to know basis is required;
- (d) disclosure is necessary by First Gas to maintain the safety and reliability of the Transmission System, or is required to give effect to the Code, a TSA, a supplementary agreement or an interconnection agreement;
- (e) this Agreement or the Code contemplates or requires the disclosure or provision of the information (or information or analysis derived from such information) on OATIS or otherwise contemplates or requires the disclosure of such information;
- (f) use or disclosure is required by law (including information disclosure requirements and/or the listing rules of a recognised stock exchange) or any order of a competent court;
- (g) the other Party has consented in writing to the use or disclosure;
- (h) the information is obtained from a third party, whom such Party believes, in good faith, to be under no obligation of confidentiality;
- (i) disclosure is to such Party's auditors; or

(j) disclosure is required pursuant to the resolution of any dispute under this Agreement.

Notwithstanding anything in this Agreement to the contrary, no Party shall be required to disclose information that it is precluded from disclosing by law or third party contractual confidentiality obligations.

19.5 ~~19.3~~ The Parties agree that the existence and terms of this Agreement ~~is~~are 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 (and are not otherwise confidential). First Gas will promptly after the date of first gas flow under this Agreement make available this Agreement (and any amendment) in full on OATIS and may otherwise disclose such ICA (and any amendment) to any other person.~~

Records

19.6 Each Party shall maintain proper books and records in relation to matters which are the subject of this Agreement for a period of not less than seven years (including test results and monitoring data for a period of not less than seven years after the date it was collected).

Waiver

19.7 ~~19.4~~ 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

19.8 ~~19.5~~ 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 in relation to its subject matter.

Amendment

19.9 ~~19.6~~ 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

19.10 ~~19.7~~ 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

[19.11](#) ~~19.8~~ 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

[19.12](#) ~~19.9~~ The Parties acknowledge and agree that, in relation to this Agreement:

- (a) 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
- (b) 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~~ Parties under [this Agreement](#), and that it is fair and reasonable that the Parties contract out of those provisions.

Contractual Privity

[19.13](#) ~~19.10~~ 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

[19.14](#) ~~19.11~~ 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

[19.15](#) ~~19.12~~ 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.

[19.16](#) ~~19.13~~ 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

[19.17](#) ~~19.14~~ Where this Agreement is transferred by way of assignment pursuant to *section* ~~19.12~~ [19.15](#) and ~~19.13~~, [19.16](#), 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 arising under this Agreement prior to the date of assignment 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.

19.18 ~~19.15~~ 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

19.19 ~~19.16~~ Where this Agreement is transferred by way of novation pursuant to *sections* ~~19.12~~ 19.15 and ~~19.13~~ 19.16, 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~~ requirement that:

- (a) with effect from the date of novation:
 - (i) the Incoming Party shall be substituted for the Exiting Party under this Agreement;
 - (ii) the Exiting Party shall then be released from all of its obligations and liabilities under this Agreement; and
 - (iii) the Incoming Party shall:
 - A. be bound by, comply with and be liable to the Counterparty under, all the provisions of this Agreement; and
 - B. enjoy all the rights and benefits of the Exiting Party under this Agreement; and
- (b) 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

19.20 ~~19.17~~ 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.

~~20~~ DEFINITIONS AND CONSTRUCTION

Defined Terms

~~20.1~~ Subject to ~~section 20.2~~, capitalised terms have the meaning given to those terms in the Code.

~~20.2~~ In this Agreement:

~~Additional Receipt Point~~ means a receipt point that:

- ~~(a)~~ is built after the Commencement Date; or
- ~~(b)~~ 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:

- ~~(a)~~ a Party reasonably believes that the safe transportation of Gas in its own or the other Party’s Pipeline is significantly at risk;

- ~~(b) 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;~~
- ~~(c) First Gas' ability to receive Gas at a Receipt Point is impaired; or~~
- ~~(d) 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;~~

~~Odourisation Facilities~~ means the equipment and facilities, in accordance with ~~section 7,~~ to odourise Gas injected at a Receipt Point;

~~Odourisation 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:

- ~~(a)~~ 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 Odourisation 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

~~20.3 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:~~

~~(a) survive that termination and continue in full force and effect until the Expiry Date (subject to earlier termination in accordance with section 14); and~~

- ~~(b) 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

~~20.4 In this Agreement, unless the context otherwise requires:~~

- ~~(a) "inject" includes to cause or allow Gas to flow at a Receipt Point, and other grammatical forms of "inject" shall be construed accordingly;~~
- ~~(b) "curtail" includes to reduce, either partly or to zero and to shut or close down;~~
- ~~(c) any reference to a "quantity of Gas" or an "energy quantity" is a reference to GJ of Gas unless otherwise stated;~~
- ~~(d) "scm" is a reference to a standard cubic metre, namely a cubic metre of gas at standard temperature and pressure, i.e. 15 °C and 1.01325 bar absolute;~~
- ~~(e) any reference to "metered quantity" is a reference to the quantity of Gas determined using data obtained from Metering;~~
- ~~(f) all sections of this Agreement (excluding the definition of Non-Specification Gas) apply to Non-Specification Gas as if it were Gas;~~
- ~~(g) headings are for ease of reference only and shall not form any part of the context or affect the interpretation of this Agreement;~~
- ~~(h) 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;~~
- ~~(i) 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;~~
- ~~(j) any reference to a document includes all valid amendments, variations, supplements to, or replacements of such document;~~
- ~~(k) references to a Party includes its respective successors and permitted assignees;~~
- ~~(l) the singular includes the plural and vice versa;~~

- ~~(m) any derivation of a defined term or "inject" or "curtail" shall have a corresponding meaning;~~
- ~~(n) 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;~~
- ~~(o) any reference to a prohibition against doing something includes a reference to not permitting, suffering or causing that thing to be done;~~
- ~~(p) any reference to a range of sections includes the first and last sections referenced;~~
- ~~(q) 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);~~
- ~~(r) any reference to "includes", "including" or similar shall imply no limitation; and~~
- ~~(s) any reference to "law" includes all statutes, regulations, codes of practice and local authority rules.~~

EXECUTION:

First Gas Limited by:

Signature of authorised signatory

Name of authorised signatory

[] **Limited** by:

Signature of authorised signatory

Name of authorised signatory

ICA SCHEDULE ONE: RECEIPT POINT DETAILS

Receipt Point	[name] (alpha-numeric ID)
Address	
Status as at Commencement Date	Existing
Interconnection Fee	Determined by First Gas <u>[To be determined in accordance with section 11]</u>
Termination Fee	Determined by First Gas <u>[To be determined in accordance with section 11]</u>
Metering Location	<u>[At the Receipt Point]</u>
Metering Owner	The Interconnected Party
Maximum Design Flow Rate	[] scm/hour
Physical MHQ	[] GJ
Minimum Design Flow Rate	[] scm/hour
MAOP of Pipelines:	
<i>First Gas'</i>	[] bar gauge
<i>Interconnected Party's</i>	[] 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 <u>_HV-XXXXX</u> on [] Flowsheet - Piping & Instrument Diagram number [XXXXXX-AAAA-NNN-TT]]
First Gas Equipment:	
Odourisation Status of First Gas' Pipeline	<u>[Odourised / Non-odourised]</u>
Odourisation Facilities Owner (if any)	
Odourisation Fee (if any)	Determined by First Gas <u>[To be determined in accordance with section 11]</u>

ICA SCHEDULE TWO: TECHNICAL REQUIREMENTS

1.1 The design, construction, commissioning, operation and maintenance of each Receipt Point (including any First Gas Equipment) shall:

(a) conform with good gas industry engineering practice (it being acknowledged that for Receipt Points which exist as of 1 October 2019 such good gas industry engineering practice shall, up until 1 October 2021, reflect applicable practices and equipment in place as at 1 October 2019); and ~~shall~~

(b) comply with the requirements of recognised and applicable standards as well as all current and relevant laws, including:

(i) ~~(a)~~ AS 2885.1: ~~2007~~2012 Pipelines - Gas and Liquid Petroleum, Part 1: Design and Construction;

(ii) ~~(b)~~ Gas Act 1992 and associated regulations;

(iii) ~~(c)~~ Health and Safety at Work Act 2015;

(iv) ~~(d)~~ Health and Safety in Employment (Pipelines) Regulations;

(v) ~~(e)~~ Resource Management Act 1991;

(vi) ~~(f)~~ Electrical (Safety) Regulations;

(vii) ~~(g)~~ AS/NZS 3000 – Wiring Rules;

(viii) ~~(h)~~ AS/NZS 60079.14 - Explosive Atmospheres: Electrical Installations, Design Selection and Erection; and

(ix) ~~(i)~~ mandatory Codes of Practice and Standards associated with any of the above.

1.2 A Receipt Point must incorporate:

(a) appropriate security fencing to reasonably prevent unauthorised access;

(b) adequate means of access and egress for vehicles and personnel;

(c) adequate space to accommodate and permit the safe operation and maintenance of all equipment and structures;

(d) Metering;

(e) clear signs indicating restricted access and Hazardous areas, supplemented by secure barriers where required;

- (f) only electrical equipment that complies with ~~the NZ Electricity Act and Regulations~~[applicable legislation that relates to such electrical equipment](#);
 - (g) 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;
 - (h) 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;
 - (i) means to electrically isolate First Gas' Pipeline from a Receipt Point, as well as a suitable surge diverter installed across each such isolating device;
 - (j) equipment to reasonably prevent any solid or liquid contaminants from reaching First Gas' Pipeline;
 - (k) 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;
 - (l) a check (non-return) valve to prevent reverse flow through a Receipt Point.
- 1.3 A Receipt Point shall incorporate equipment to enable First Gas to remotely monitor that Receipt Point, Metering and Odourisation Facilities (if any), retrieve data and other information and (if required) control any First Gas Equipment. Such equipment may include:
- (a) a remote terminal unit for First Gas' SCADA ("Supervisory, Control and Data Acquisition") system, radio or other communications equipment, and related ancillary equipment; or
 - (b) such other suitable equipment as First Gas may reasonably require,
(the Remote Monitoring Equipment).
- 1.4 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.
- 1.5 Where the risk assessment referred to in *section 2.42.8(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:
- (a) primary means of pressure control; and
 - (b) separate and independent means of over-pressure protection, which shall operate in the event that the primary means of pressure control fails.

1.6 Pursuant to *paragraph 1.5*:

- (a) 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
- (b) the means of over-pressure protection shall comprise:
 - (i) a monitor regulator in both the working stream and the standby stream; and
 - (ii) 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
 - (iii) a slam-shut valve; or
 - (iv) all of (i), (ii) and (iii).

1.7 Where required by First Gas to operate its Remote Monitoring Equipment, any other [First Gas' Equipment](#) and Odourisation 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~~[Equipment](#) for not less than four hours if the Mains Supply fails.

1.8 First Gas may require means to remotely control the flow of Gas at a Receipt Point.

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)	<u>Termination Fee (Receipt Point) (dollars)</u>	Odorisation Fee (dollars/Day)	Termination Fee (<u>Odorisation Facilities</u>) (dollars)

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