



**CENTRAL AREA TRANSMISSION SYSTEM**

**TRANSPORTATION AND PROCESSING AGREEMENT**

**SECTION II: CONDITIONS OF CONTRACT**

## CONDITIONS OF CONTRACT

### TABLE OF CONTENTS

ARTICLE 1 – DEFINITIONS AND INTERPRETATION .....	1
1.1 Definitions.....	1
1.2 Headings .....	17
1.3 Assignments .....	17
1.4 References to Articles .....	18
1.5 Schedules .....	18
1.6 References to Statutes .....	18
1.7 Singular and Plural, Gender .....	18
1.8 Use of “Include” or “Including” .....	19
1.9 Rates of Interest .....	19
ARTICLE 2 - SCOPE.....	19
2.1 Scope.....	19
2.2 Standard of Performance.....	19
ARTICLE 3 - TERMINATION OF AGREEMENT .....	20
3.1 Termination Events .....	20
3.2 Accrued Rights on Termination.....	21
ARTICLE 4 - FACILITIES AND ACCESS .....	22
4.1 Shipper Field Facilities .....	22
4.2 Repair and Maintenance of CATS Facilities .....	23
4.3 Conduct of Operations by the CATS Parties and CATS Operator .....	24
4.4 Shipper’s Consents.....	24
4.5 CATS Parties’ Consents .....	24
4.6 Termination for Failure to obtain Consents .....	25
4.7 Access to Facilities .....	25
4.8 Liabilities in connection with Access .....	26
ARTICLE 5 - DELIVERY POINT, REDELIVERY POINT AND DELIVERY CONDITIONS .....	26
5.1 Delivery Point .....	26
5.2 Redelivery Point.....	26
5.3 Product Redelivery Point .....	27
5.4 Delivery Specification.....	27
ARTICLE 6 - NON-SPECIFICATION DELIVERY CONDITIONS .....	27
6.1 Notification of Non-specification Gas .....	27
6.2 CATS Parties’ Refusal to Accept Non-specification Gas.....	27
6.3 Conditions on Accepting off-specification Gas .....	28
6.4 Uniform and Constant Delivery .....	29
6.5 Mercury.....	29
ARTICLE 7 - RIGHTS OF TRANSPORTATION PROCESSING AND DELIVERY..	31
7.1 New Entrant Co-ordination Process .....	31
7.2 The Service .....	32
7.3 Obligation to Evacuate Redelivery Gas .....	33
7.4 Obligation to Evacuate Shipper Product .....	34
7.5 Use of CATS System Capacity by CATS Parties .....	36
7.6 Commingling of Shipper Gas with CATS Gas .....	36
7.7 Use of Shipper Gas by CATS Parties .....	36
7.8 Inability to Deliver at Redelivery Point or Product Redelivery Point .....	37

CATS TPA Section II

ARTICLE 8 - SUSPENSION/REDUCTION OF SERVICES AND MAINTENANCE.	37
8.1 Rights of Suspension/Maintenance .....	37
8.2 Suspension for Environmental and other problems .....	38
8.3 Allocation of Available Capacity .....	39
8.4 Maintenance Operations .....	39
ARTICLE 9 – TARIFFS .....	40
9.1 Tariff Payment /Fee .....	40
9.2 Tariff Adjustment Provisions .....	40
9.3 Circumstances Affecting Producer Price Index .....	41
9.4 Reference to Expert .....	43
9.5 Calculation of Tariff .....	44
9.6 Revised Denominator .....	44
ARTICLE 10 - BILLING AND PAYMENT .....	46
10.1 Issuance of Statement and Division Order of Payment .....	46
10.2 Contents of Statements and Division Orders of Payment .....	46
10.3 Payment of Sums Due .....	48
10.4 Calculation of Due Date .....	48
10.5 Value Added Tax .....	48
10.6 Royalties, Taxes etc .....	49
10.7 Amounts in Dispute .....	50
10.8 Default .....	51
10.9 Right to Examine Shipper’s Books and Records .....	52
10.10 Right to Examine CATS Parties’ Books and Records .....	53
10.11 Conduct of Examinations .....	53
ARTICLE 11 – ALLOCATION AND MEASUREMENT .....	54
ARTICLE 12 - COST SHARING BASIS .....	54
12.1 Operating Cost Sharing .....	54
ARTICLE 13 - NECESSARY INVESTMENT .....	56
ARTICLE 14 - INSURANCE AND RISK .....	63
14.1 Property and Risk in Shipper Gas, Redelivery Gas and Shipper Product .....	63
14.2 Warranties by Shipper and CATS Parties .....	63
14.3 Shipper’s Insurance .....	63
14.4 CATS Parties Insurance .....	63
14.5 Insurance of Shipper Field Facilities .....	64
ARTICLE 15 - LIABILITIES AND INDEMNITIES .....	64
15.1 Exceptions .....	64
15.2 Shipper’s Consequential Losses .....	65
15.3 CATS Parties’ Consequential Losses .....	65
15.4 Shipper Direct Losses .....	65
15.5 CATS Direct Losses .....	66
15.6 Extension of Relief .....	66
15.7 No Prejudice to Express Obligations .....	66
15.8 Performance by CATS Operator .....	66
15.9 Performance by Shipper Group Operator .....	67
15.10 Conduct of Proceedings .....	67
ARTICLE 16 – DECOMMISSIONING .....	67
16.1 Notice of Decommissioning .....	67
16.2 Shipper’s Options .....	68
16.3 Content of CATS Parties’ Election .....	69
16.4 Event of Delay .....	70

CATS TPA Section II	
16.5	Further Notice of Decommissioning.....71
16.6	Shipper’s right to Terminate .....71
16.7	Decommissioning of CATS System or any part thereof.....72
ARTICLE 17 - FORCE MAJEURE .....72	
17.1	Force Majeure .....72
17.2	Effect of Force Majeure .....72
17.3	Termination for Force Majeure.....74
ARTICLE 18 - OPERATORS WARRANTIES .....75	
18.1	Authority of CATS Operator .....75
18.2	Authority of Shipper Group Operator .....75
ARTICLE 19 - THE EXPERT .....75	
19.1	Appointment of Expert .....75
19.2	Procedure for Appointment of an Expert.....75
19.3	Qualifications of Expert .....77
19.4	Communications and Submissions .....78
19.5	Co-ordination of Disputes.....80
ARTICLE 20 - ASSIGNMENT .....80	
20.1	Assignment to Affiliates .....80
20.2	Assignment to Non-Affiliate.....80
20.3	Pre-conditions to Assignment .....81
20.4	Transfer of Associated CATS Interests .....81
20.5	Transfer of Associated Shipper Interests .....82
20.6	Encumbrances .....82
ARTICLE 21 - CONFIDENTIALITY .....83	
21.1	Information to be held Confidential.....83
21.2	Exceptions .....85
21.3	Terms of Agreement to be held Confidential.....86
21.4	Duration of Obligations .....86
ARTICLE 22 - RELATIONSHIPS OF PARTIES .....86	
22.1	Obligations of CATS Parties Several .....86
22.2	Joint and Several Liability of the Shipper.....86
22.3	No Partnership .....87
ARTICLE 23 - WAIVER .....87	
ARTICLE 24 - DISCHARGE OF OBLIGATIONS .....87	
ARTICLE 25 – RIGHTS OF THIRD PARTIES.....87	
25.1	Contracts (Rights of Third Parties) Act 1999 .....87
25.2	Right to Rescind.....88
25.3	No Assignment by Third Parties .....88
25.4	Limitation.....88
SCHEDULE I .....89	
REDELIVERY POINT .....89	
SCHEDULE II .....90	
REDELIVERY SPECIFICATION .....90	
SCHEDULE III.....92	
PRODUCT REDELIVERY POINT .....92	
SCHEDULE IV .....93	
PRODUCT SPECIFICATION .....93	

## **ARTICLE 1 – DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

Words and phrases used in this Agreement shall have the meanings ascribed thereto by this Article and Article 1.1 of Section I.

“Actual Decommissioning Costs” means all costs, claims, liabilities and expenses incurred in Decommissioning the CATS Facilities or any part thereof;

“Additional Costs” means any costs associated with and arising from legislation and/or industry wide codes of conduct relating to environmental performance including increased Operating Costs, penalties and purchase of emissions allowances and/or credits;

“Affected Party” has the meaning ascribed thereto by Article 17.1;

“Affiliate” means, in relation to a company, any holding company or subsidiary company of the company in question or any company which is a subsidiary company of any holding company of the company in question and the expressions “holding company” and “subsidiary” shall have the meanings respectively ascribed thereto by Section 1159 of the Companies Act 2006 as amended from time to time provided that a company shall be treated, for the purpose only of the membership requirement contained in sub-sections 1159(1)(b) and (c), as a member of another company even its shares in that company are registered in the name of (i) another Person (or its nominee), whether by way of security or in connection with the taking of security, or (ii) its nominee;

“Agreement” means this agreement comprising Section I and the Exhibits attached to Section I, together with Section II and the Schedules attached to Section II, as amended, novated, supplemented or assigned from time to time;

“Annual Adjusted Excess Gas Charge” has the meaning ascribed thereto by Article 5.3(c)(i) of Section I;

“Annual Excess Gas” has the meaning ascribed thereto by Article 5.3(c) of Section I;

“Annual Relevant Capacity” means in respect of each Relevant User of the Relevant Part, the CATS Operator’s bona fide estimate of the aggregate of the capacity to be reserved for each Day by such Relevant User in the Relevant Part during the Contract Year in question. “Annual Relevant Capacities” shall be construed accordingly;

“Approved Mercury Testing Contractor” means any such Person as may be designated as a CATS approved mercury testing contractor by the CATS Operator from time to time;

“Associated Agreements” means any agreement entered into by the Shipper for the sale of Redelivery Gas and/or Shipper Product;

“Butane” means any mixture of hydrocarbons consisting predominantly of butane;

“CATS Allocation Agreements” means:

- (a) the PAA; and/or
- (b) the TAA;

“CATS Capacity Parties” means the CATS Parties, the CATS Operator and its and their respective directors, officers and employees;

“CATS Direct Losses” has the meaning ascribed thereto in the definition of Direct Loss;

“CATS Facilities” means the facilities owned by the CATS Parties and/or operated by the CATS Operator which are necessary for the performance of the Service (which for the avoidance of doubt, shall include the CATS Riser Platform);

“CATS Gas” means all Natural Gas transported or to be transported in the CATS System or any part thereof;

“CATS Interest” means the undivided interest (expressed as a percentage) from time to time of a CATS Party (or its successor or permitted assigns) under this Agreement and all rights, interests, obligations and liabilities attaching to such interest;

“CATS Measurement Manual” means the manual attached at Schedule III of each of the CATS Allocation Agreements containing the procedures for measurement of CATS Gas, CATS Product, Redelivery Gas and Shipper Product;

“CATS Operator” means the company designated by the CATS Parties from time to time as the operator of the CATS System (acting solely in its capacity as such) and which at the date hereof is CATS North Sea Limited;

“CATS Product” means NGL and condensate extracted or separated from or which drops out of CATS Gas other than NGL and condensate which is extracted or separated from CATS Gas after leaving the CATS System;

“CATS Riser Platform” means the riser platform and all associated facilities and equipment thereon situated at 57°45'29''N, 01°48'14''E;

“CATS System” means the following property owned by the CATS Parties:

- (a) the CATS Facilities; and

- (b) all facilities, other than the CATS Facilities, owned by the CATS Parties and/or operated by the CATS Operator for the transportation and processing of CATS Gas and CATS Product, as the same may exist from time to time;

“CATS Technical Brochure” means the brochure issued by the CATS Operator on the CATS website ([www.catspipeline.com](http://www.catspipeline.com)) as updated from time to time entitled “CATS Technical Brochure”;

“CATS Terminal” means that part of the CATS System consisting of the onshore valving, metering, piping and processing equipment owned by the CATS Parties and/or operated by the CATS Operator and located at Teesside, for receiving and processing CATS Gas and redelivering CATS Gas and CATS Product to CATS Users;

“CATS User” means each Person for whom Natural Gas is being or shall be transported and/or processed through and redelivered from the CATS System or any part thereof;

“CID” means the Cross Indemnity Deed entered into by all CATS Users dated 15<sup>th</sup> September 1995;

“Commencement Date” means that date referred to in Article 2 of Section I;

“Condensate” means any hydrocarbons consisting predominantly of pentanes and heavier hydrocarbons;

“Consequential Loss” means any indirect or consequential loss or damage howsoever caused or arising and which may be claimed or is recoverable at common law or in equity, whether pursuant to a contract, by virtue of any trust or fiduciary duty, in tort or in delict (including negligence), as a consequence or breach of any duty (statutory or otherwise) or under any other legal doctrine or principle whatsoever whether or not recoverable at common law or in equity and whether or not foreseeable at the date of this Agreement. Without



prejudice to the foregoing generality, “Consequential Loss” shall be deemed to include the following to the extent to which they might not otherwise constitute indirect or consequential loss or damage:

- (a) loss or damage arising out of any delay, postponement, interruption or loss of production, any inability to produce, deliver or process hydrocarbons or any loss or anticipated loss of use, profit or revenue;
- (b) losses associated with business interruption including the cost of overheads incurred during business interruption;
- (c) loss of bargain, contract, expectation or opportunity;
- (d) loss of revenue, production or profit or any loss or damage incurred or to be incurred or liquidated or pre-estimated damages or penalties of any kind whatsoever borne or payable under any contract for the sale, exchange, transportation or other disposal of Natural Gas (including its subsequent use for the generation of electricity) and/or CATS Product;  
and
- (e) all other losses or damages which are not immediately and directly caused by the relevant act or omission;

“Contract Year” means a period during the term of this Agreement commencing at 06:00 hours on 1st October of any calendar year and ending immediately prior to that hour on 1<sup>st</sup> October of the following calendar year, save that notwithstanding the foregoing the first Contract Year shall commence at 06:00 hours on the Commencement Date and shall end immediately prior to that hour on the next following 1<sup>st</sup> October and the final Contract Year shall commence at 06:00 hours on the 1<sup>st</sup> October immediately preceding any termination of this Agreement and shall end at 06:00 hours on the date of such termination;

“Corrected Decommissioning Costs” means all costs, claims, liabilities and expenses of Decommissioning of the CATS Facilities or any part thereof which the Relevant Parties would have incurred if the CATS Facilities or such part

thereof had, since the date on which the Relevant Parties acquired the CATS Facilities or such part thereof, been operated, maintained, repaired and Decommissioned in accordance with the standard of a Reasonable and Prudent Operator and prevailing laws and regulations;

“Cubic Metre” when applied to Natural Gas shall mean the quantity of Natural Gas which at a temperature of 15°C and a pressure of 101.325 KPa (such Natural Gas being free of water vapour) occupies one cubic Metre;

“CULA” means the Cross User Liability Agreement in respect of the CATS System entered into by all CATS Users dated 22 December 1999;

“Daily Tariff Payment” shall have the meaning ascribed thereto by Article 5.1 of Section I;

“Day” means a period beginning at 06:00 hours on any day and ending at 06:00 hours on the following day and the date of any Day is the date of its beginning as herein defined;

“Decommissioning” means the decommissioning, dismantling and removal of the CATS Facilities or any part thereof including clearance of all sites and/or restoration of all lands and/or seabeds around the CATS System or any part thereof in accordance with any requirements under applicable law or contracts. “Decommission” and other derivatives shall be construed accordingly;

“Deemed Decommissioning Costs” means all costs, claims, liabilities and expenses of Decommissioning which the CATS Parties would have incurred if the CATS Facilities or relevant part thereof had been Decommissioned at the date set out in the CATS Parties' notice pursuant to Article 16.1 as the date on which it is intended that Decommissioning will commence;

“Degrees Celsius” or “°C” or “deg C” means the particular interval between the temperature in Kelvin and the temperature of 273.15 Kelvin as defined in ISO 1000:1981 (E);

“Direct Loss” means:

- (a) with respect to the Shipper:
  - (i) any Loss in respect of the illness or disease of, injuries to or death of any one or more of the directors, officers, employees and/or agents of any of the Shipper Field Capacity Parties;
  - (ii) any Loss in respect of damage to or destruction or loss of any physical property owned by or in the control of any of the Shipper Field Capacity Parties (including, Shipper Field Facilities, Shipper Gas, Redelivery Gas and Shipper Product); and
  - (iii) any Loss in respect of environmental pollution caused by the acts or omissions of any of the Shipper Field Capacity Parties arising out of the operation, repair or maintenance of Shipper Field Facilities (including without limitation environmental clean-up costs and losses for which there is an obligation pursuant to the Offshore Pollution Liability Agreement dated 4th September 1974, as amended from time to time, or any replacement scheme)

(all of the foregoing being the “Shipper Direct Losses”);

- (b) with respect to the CATS Parties:
  - (i) any Loss in respect of the illness or disease of, injuries to or death of any one or more of the directors, officers, employees and/or agents of the CATS Capacity Parties;
  - (ii) any Loss in respect of damage to or destruction or loss of any physical property owned by or in the control of any of the

- CATS Capacity Parties, (including without limitation the CATS System but excluding CATS Gas and CATS Product); and
- (iii) any Loss in respect of environmental pollution caused by the acts or omissions of the CATS Capacity Parties, arising out of the operation, repair or maintenance of the CATS System (including without limitation environmental clean up costs and losses for which there is an obligation pursuant to the Offshore Pollution Liability Agreement dated 4th September 1974, as amended from time to time, or any replacement scheme)

(all of the foregoing being “CATS Direct Losses”);

“Division Order of Payment” means that document issued in accordance with Article 10.1;

“DRCR” or “Daily Reserved Capacity Rate” has the meaning ascribed thereto by Article 3.1 of Section I;

“EDRCR” or “Estimated Daily Reserved Capacity Rate” has the meaning ascribed thereto by Article 3.1 of Section I;

“Effective Date” means the date hereof;

“Event” has the meaning ascribed thereto by Article 9.3(b);

“Excess Gas” means the Excess Gas as determined in accordance with Article 5.3 of Section I;

“Excess Gas Tariff Payment” has the meaning attributed to it by Article 5.3, Section I;

“Exhibit” means an exhibit to Section I each of which is incorporated therein and made a part thereof by reference;

“Expert” has the meaning ascribed thereto by Article 19.1;

“Fee” has the meaning ascribed thereto by Article 5.2 of Section I;

“Force Majeure” has the meaning ascribed thereto by Article 17.1;

“Force Majeure Estimate” has the meaning ascribed thereto by Article 17.2;

“Gauge” means in relation to pressure, the pressure in excess of 101.325 KPa;

“Gross Calorific Value” and its abbreviation “GCV” means the superior (gross) real calorific value as described by ISO 6976:1983(E) of one (1) Cubic Metre of Natural Gas. The GCV shall be determined at 15° C (gas volume at 15° C and 101.325 KPa) using the procedures and data in ISO 6976:1983(E). If ISO 6976:1983(E) Table 6 does not fully define the properties of any component or pseudo-component, the Parties will agree the required properties to be used by suitable industry methods;

“Indemnity Cap” shall mean in respect of the Shipper twenty million Pounds Sterling (£20,000,000), escalated on the same basis as To in the calculation of the Tariff pursuant to Article 5.1 of Section I;

“Information” has the meaning ascribed thereto by Article 21.1;

“Investment Notice” shall be that notice described in Article 13.2(a);

“ISO” means the International Organisation of Standardisation;

“Joule” shall have the meaning specified in ISO 1000:1981 (E);

“Kilogramme” or “Kg” means the kilogramme as defined in ISO 1000:1983 (E);

“KPa” means 1,000 Pa absolute;

“LIBOR” means, in relation to any period in respect of which an interest rate is to be determined: (a) the London interbank offered rates for deposits in Pounds which is quoted on the "LIBOR01" page on the Reuter Monitor Money Rates Service (or such other page as may replace such page on such service for the purpose of displaying London interbank offered rates for deposits in Pounds) at or about 11.00 a.m. on the first Working Day of such period; or (b) if no such rate is quoted at the relevant time, the arithmetic mean (rounded upwards to four (4) decimal places) of the rates quoted by the principal London offices of Lloyds Bank plc, Barclays Bank plc and HSBC Bank plc to prime banks in the London interbank market at or about 11.00 a.m. on the first Working Day of such period for deposits in Pounds, or if the rates referred to in (a) and (b) above are not available in respect of the relevant period for any reason, such comparable rate as the Parties may agree, such agreement not to be unreasonably withheld or delayed;

“Loss” means any claims, losses, liabilities, damages, costs and/or expenses, (including Additional Costs, legal fees on a full indemnity basis and sums by way of settlement or compromise);

“Maintenance Operations” means those repair and maintenance activities with respect to the CATS System which are required to be carried out from time to time;

“Maximum Daily Rate of Delivery” means in respect of any CATS User the maximum daily rate of delivery of Natural Gas into the CATS System which such CATS User is entitled to require in respect of the Contract Year in question as may be specified from time to time under the CATS Allocation Agreements;

“Megajoule” or “MJ” means 1,000,000 Joules;

“Mercury Measurement Procedures” means the mercury measurement procedures notified to the Shipper by the CATS Operator in writing from time to time;

“Metre” has the meaning ascribed thereto by ISO 1000:1981(E);

“Month” means a period of time beginning at 06:00 hours on the first day of any calendar month and ending at 06:00 hours on the first day of the succeeding calendar month;

“National Transmission System” or “NTS” means any pipeline system (other than the CATS System for the purposes of this Agreement) in respect of which a Person may under Section 19 of the Gas Act 1986 apply for directions which would secure such Person a right to have specified quantities of Natural Gas conveyed through such pipeline system;

“Natural Gas” means any hydrocarbons or mixture of hydrocarbons and other gases consisting primarily of methane which at a temperature of 15 Degrees Celsius and 101.325 KPa are or is predominantly in the gaseous state and shall (without prejudice to the generality of the foregoing) include gas from gas wells, gas produced with crude oil and residue gas resulting from the processing of gas in accordance with this Agreement and such term shall include without limitation all NGL and other hydrocarbons which are contained in the gas stream at the point at which the gas enters the CATS System;

“Necessary Investment” shall have the meaning ascribed thereto by Article 13.1;

“New Entrant Co-ordination Process” shall have the meaning ascribed to it by Article 7.1(a);

“NGL” means a mixture of predominantly hydrocarbon products including, without limitation, ethane, propane, normal butane, iso-butane and condensate, which are produced with or as part of Natural Gas;

“Non-Affected Party” has the meaning ascribed thereto by Article 17.2(a);

“Non-Assigning Party” means (in the case of an assignment by any CATS Party) the other CATS Parties and the Shipper and (in the case of an assignment by the Shipper) the CATS Parties;

“Non-Specification Gas” means Shipper Gas which does not comply with the Delivery Specification at the Delivery Point;

“Non-Specification Redelivery Gas” means Redelivery Gas which does not comply with the Redelivery Specification at the Redelivery Point;

“Non-Specification Shipper Product” means Shipper Product which does not comply with the relevant Product Specification at the Product Redelivery Point;

“Occurrence” means:

- (a) in the case of a continuing occurrence, the whole of that occurrence;  
and
- (b) in the case of a series of occurrences all caused by or attributable to a particular happening or event, those occurrences collectively;

“OGA” means the Oil and Gas Authority (company number 09666504) or such other entity, person or department that replaces the said Oil and Gas Authority and undertakes the function currently performed by the Oil and Gas Authority insofar as relevant to this Agreement;

“Operating Costs” means in respect of any Contract Year all direct and indirect costs, including minor and routine capital costs and essential replacement of existing equipment with substantially similar equipment, necessary to maintain and operate the CATS Facilities;



“Pa” means Pascal as defined in ISO: 1000 1981(E);

“PAA” means the Central Area Transmission System Processing Allocation Agreement dated 20 November 1998;

“Party” means a party hereto;

“Person” means any person or persons, company, firm, partnership, association or body corporate;

“Pounds” or “£” means pounds sterling;

“Producer Price Index” has the meaning ascribed thereto by Article 1.1 of Section I;

“Product Redelivery Point” means in the case of:

- (a) Butane, the point described in Schedule III for the delivery of Butane;
- (b) Propane, the point described in Schedule III for the delivery of Propane; and
- (c) Condensate, the point described in Schedule III for the delivery of Condensate;

“Product Specification” means the specifications set out in Schedule IV;

“Propane” means any mixture of hydrocarbons consisting predominantly of propane;

“Provisional Tariff” has the meaning ascribed thereto by Article 9.5;

“Reasonable and Prudent Operator” means a Person seeking in good faith to perform its contractual obligations and in so doing and in the general conduct of its undertaking exercising that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and

experienced operator (or, where applied in respect of a contractor or sub-contractor, a skilled and experienced contractor) complying with all applicable laws engaged in the same type of undertaking in the same locality (which, in the case of offshore operations, shall be the United Kingdom Continental Shelf and, in the case of onshore operations, shall be England and Wales) and under the same or similar circumstances and conditions, and any reference to the standard of a Reasonable and Prudent Operator shall be a reference to such degree of skill, diligence, prudence and foresight as aforesaid;

“Receiving Party” has the meaning ascribed thereto by Article 21.1;

“Reconciled Annual Excess Gas Payment” has the meaning ascribed thereto by Article 5.3(c)(ii) of Section I;

“Redelivery Gas” means Natural Gas redelivered or to be redelivered under this Agreement to the Shipper at the Redelivery Point in accordance with the CATS Allocation Agreements;

“Redelivery Point” means the point described in Schedule I;

“Redelivery Specification” means the specification set out in Schedule II;

“Reinstatement Date” means the date on which the Relevant Part is restored to service after any Necessary Investment work is completed;

“Relevant Capacity” means in respect of each Relevant User of the Relevant Part, the aggregate of the Annual Relevant Capacities to be reserved by such Relevant User in the Relevant Part for the Relevant Period;

“Relevant Date” has the meaning ascribed thereto by Article 13.2(a)(iii);

“Relevant Part” has the meaning ascribed thereto by Article 13.2(a)(i);

“Relevant Party” means any CATS User (including the Shipper) which:

- (a) has a contract with the CATS Parties providing either for a capacity reservation in the CATS Facilities or the transportation of Natural Gas through the CATS Facilities on a firm basis throughout the period from the date of the CATS Parties' notice pursuant to Article 16.1 to the date of the intended Decommissioning as set out in such notice, which contract contains provisions to the same effect as those contained in Article 16;
- (b) wishes to continue to use the CATS Facilities for the transportation and/or processing of Natural Gas following the date of the intended Decommissioning as set out in the CATS Parties' notice in (a) above; and
- (c) is willing to purchase or lease (as the case may be) the CATS Facilities;

“Relevant Period” means the useful life of the Relevant Part after the Reinstatement Date to be agreed by the Parties, but in any event to be no longer than five (5) years;

“Relevant User” means a CATS User whose Natural Gas was being transported and/or processed using the Relevant Part prior to the Relevant Date and whose Natural Gas will continue to be transported and/or processed using the Relevant Part after the Reinstatement Date;

“Review Month” has the meaning ascribed thereto by Article 5.1 of Section I;

“Schedule” means a Schedule to Section II all of which are incorporated herein and made a part hereof by reference;

“Section I” means Section I, Form of Agreement;

“Section II” means Section II, Conditions of Contract;

“Senior Managerial Personnel” means in relation to any Party, any of its directors or other corporate officers or senior managers. For the purposes of

this definition “other corporate officers” or “senior managers” shall mean in relation to a Party, any person employed by such Party or its Affiliate who directly reports to a director or board of directors, which director or board of directors has overall responsibility for the management of the assets and interests of the Party in question and its subsidiaries;

“Service” means the service described in Article 7.2;

“Shipper” has the meaning ascribed thereto by Section I;

“Shipper Direct Losses” has the meaning ascribed thereto in the definition of Direct Loss;

“Shipper Field Capacity Parties” means the Shipper and the Shipper Group Operator and their respective directors, officers and employees;

“Shipper Gas” means Natural Gas produced from the Shipper Field and owned by the Shipper which is tendered for delivery at the Delivery Point for transportation and processing under this Agreement;

“Shipper Group Operator” means the company designated by the owners of beneficial interests in the Shipper Field from time to time as the operator of the Shipper Field (acting solely in its capacity as such);

“Shipper Product” means Propane, Butane and/or Condensate to be delivered to the Shipper at the relevant Product Redelivery Point;

“Shipper Share” has the meaning ascribed thereto by Article 13.2;

“Shipper Share Percentage” means the Shipper’s Relevant Capacity divided by the aggregate of all Relevant User’s Relevant Capacity;

“TAA” means the Central Area Transmission System Transportation Allocation Agreement dated 20 November 1998;

“Tariff” has the meaning ascribed thereto in Article 5.1 of Section I;

“Tariff Payment” has the meaning ascribed thereto in Article 5.1 of Section I;

“Value Added Tax” or “VAT” means value added tax as provided for in the Value Added Tax Act 1994 or any other tax of a similar fiscal nature;

“Wilful Misconduct” means any act or omission by the Senior Managerial Personnel of a Person (whose Wilful Misconduct is being referred to) which constitutes an intentional and conscious or reckless disregard of:

- (a) any material provision of this Agreement; and/or
- (b) harmful consequences to the safety or physical property of another Person

but shall not include any error of judgement or mistake made by such Senior Managerial Personnel in the exercise in good faith of any function, authority or discretion conferred on such Senior Managerial Personnel; and

“Working Day” means any calendar day on which clearing banks in the City of London are normally open for business, excluding any Saturday.

## **1.2 Headings**

The headings of Articles in this Agreement are included for convenience and ease of reference only and are not included in this Agreement for the purposes of the construction thereof.

## **1.3 Assignments**

Any reference in this Agreement to any other agreement shall be construed as a reference to such agreement as amended, supplemented, novated or assigned from time to time.

#### **1.4 References to Articles**

Any reference in Section I to Articles is unless expressly stated to the contrary, a reference to Articles in Section I. Any reference to Articles in this Section II is, unless expressly stated to the contrary, a reference to Articles in this Section II.

#### **1.5 Schedules**

The Schedules attached to and made a part of this Section II are:

Schedule I Redelivery Point

Schedule II Redelivery Specification

Schedule III Product Redelivery Point

Schedule IV Product Specification

#### **1.6 References to Statutes**

Reference in this Agreement to any statute, statutory provision or statutory instrument shall be deemed to be a reference to that statute, statutory provision or statutory instrument as from time to time amended, consolidated, re-enacted or supplemented provided always that the expressions “holding company” and “subsidiary” shall continue to have the meanings ascribed to them in Section 1159 of the Companies Act 2006.

#### **1.7 Singular and Plural, Gender**

In this Agreement, unless the context otherwise requires, reference to the singular shall include reference to the plural and vice versa and reference to any gender shall include a reference to all other genders.

**1.8 Use of “Include” or “Including”**

In this Agreement, the words “include” or “including” shall not be construed as a limitation, unless otherwise stated

**1.9 Rates of Interest**

The Parties agree that the rates of interest in this Agreement on late payments or repayments of overpayments represent a substantial commercial remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998.

**ARTICLE 2 - SCOPE**

**2.1 Scope**

This Agreement contains the terms and conditions upon which the CATS Parties shall provide the Service using the CATS Facilities in respect of Shipper Gas.

**2.2 Standard of Performance**

- (a) The CATS Parties and the Shipper shall exercise their respective rights and discharge their respective obligations hereunder to the standard of a Reasonable and Prudent Operator.
- (b) To the extent that the Shipper Group Operator or the CATS Operator exercises rights or discharges obligations attributable hereunder to the Shipper or to the CATS Parties (as the case may be), the Shipper (in the case of the Shipper Group Operator) and the CATS Parties (in the case of the CATS Operator) shall procure that such rights are exercised and that such obligations are discharged to the standard of a Reasonable and Prudent Operator.

## **ARTICLE 3 - TERMINATION OF AGREEMENT**

### **3.1 Termination Events**

- (a) If the CATS Parties have for any reason, other than Force Majeure affecting the CATS Parties or any reason attributable to the Shipper, been unable or unwilling to accept at the Delivery Point all properly nominated and tendered quantities of Shipper Gas for a continuous period of one hundred and eighty (180) consecutive Days, the Shipper shall have the right, upon giving the CATS Parties not less than thirty (30) days prior notice in writing, to terminate this Agreement.
  
- (b) If the Shipper has for any reason, other than Force Majeure affecting the Shipper or any reason attributable to the CATS Parties, or any of them, been unable or unwilling to tender Shipper Gas for delivery at the Delivery Point for a continuous period of one hundred and eighty (180) consecutive Days, the CATS Parties shall have the right, upon giving the Shipper not less than thirty (30) days prior notice in writing, to terminate this Agreement.
  
- (c) This Agreement shall automatically terminate upon the earliest of the following events to occur:
  - (i) termination in accordance with Article 2.4 of Section I;
  
  - (ii) if the DRCCR nominated in accordance with Article 3.4 of Section 1 is at any time less than ten thousand Cubic Metres per Day (save where the DRCCR has been reduced pursuant to the provisions of Article 3.5 of Section 1, but which shall be without prejudice to the rights of the Parties under Article 3.1 (a) or 3.1 (c) (x));



- (iii) following service of notice by the CATS Parties or the Shipper pursuant to Article 4.6;
- (iv) following service of notice to terminate by the CATS Parties pursuant to Article 10.8(c);
- (v) following service of notice by the Shipper in accordance with Article 12.1(c);
- (vi) if either the Shipper makes an election or deemed election to terminate under Article 13.2 (b)(i), Article 13.2(d)(i) or Article 13.2(e), or if having made the election to contribute its Shipper Share, the Shipper fails to pay its share within the relevant time period specified in Article 13.3;
- (vii) following election of the Shipper to discontinue use of the CATS Facilities pursuant to Article 16.2(b);
- (viii) on the date that the CATS Parties decide to proceed with Decommissioning of the CATS Facilities pursuant to Article 16.4(b);
- (ix) following election of the Shipper to terminate this Agreement pursuant to Article 16.6; or
- (x) following election of the Shipper or the CATS Parties to terminate this Agreement pursuant to Article 17.3(a) or Article 17.3(b).

### **3.2 Accrued Rights on Termination**

Any termination of this Agreement (howsoever caused) shall be subject to final settlement made between the Parties in liquidating all accounts and payment of sums due, and subject to any accrued rights and liabilities, including any audit rights in respect of such final settlement. The provisions of Articles 2.2, 10, 12,

13, 14, 18 and 19 of this Section II and any Articles of Section I or Section II necessary for the application and enforcement of such Articles shall survive the expiry or the termination of this Agreement.

## **ARTICLE 4 - FACILITIES AND ACCESS**

### **4.1 Shipper Field Facilities**

The Shipper shall:

- (a) procure that, at the cost of the Shipper, the Shipper Field Facilities shall be inspected, repaired, maintained and operated in good working order and condition and that the Shipper Field Facilities shall at all times be compatible with the design, construction and operation of the CATS System including, inter alia, in respect of metering equipment and procedures, software, control systems and telecommunications, and the operating practices of the CATS Parties;
- (b) procure, at the cost of the Shipper, the design, construction, installation, commissioning, certification, testing, inspection, repair, maintenance and operation in accordance with the standard of a Reasonable and Prudent Operator, of such other facilities in or on the Shipper Field Facilities as the CATS Parties may in accordance with the standard of a Reasonable and Prudent Operator from time to time require to ensure that the CATS System is capable of being operated safely and in compliance with any applicable law or regulation;
- (c) pay all costs associated with delivering Shipper Gas to the Delivery Point, and all costs associated with evacuating Redelivery Gas or Non-Specification Redelivery Gas from the Redelivery Point and Shipper Product and Non-Specification Shipper Product from the Product Redelivery Point;

- (d) at the Shipper's own cost and expense, procure the installation, maintenance, repair and replacement of all telecommunications facilities and equipment necessary in relation to the performance of this Agreement which are not situated on premises owned or operated by the CATS Operator, such that they remain compatible with the CATS System;
- (e) at the Shipper's own cost and expense, procure that the Host Facilities are inspected, repaired, maintained and operated as the CATS Parties may from time to time reasonably require to ensure that (i) the CATS System is capable of being operated safely and in compliance with any applicable law or regulation and that (ii) the Host Facilities shall at all times be compatible with the design, construction and operation of the CATS System including, inter alia, in respect of metering equipment and procedures, software, control systems and telecommunications, and the operating practices of the CATS Parties; and
- (f) use reasonable endeavours to procure the design, construction, installation, commissioning, certification, testing, inspection, repair, maintenance and operation in accordance with the standard of a Reasonable and Prudent Operator, of such facilities in or on the Host Facilities as the CATS Parties may in accordance with the standard of a Reasonable and Prudent Operator from time to time require to ensure that the CATS System is capable of being operated safely and in compliance with any applicable law or regulation;

#### **4.2 Repair and Maintenance of CATS Facilities**

Subject to and in accordance with this Agreement, the CATS Parties shall repair, maintain and operate in good working order and condition the CATS Facilities, at the cost of the CATS Parties, and in such manner as to be capable of performing the Service for Shipper Gas in accordance with this Agreement from the Commencement Date until termination of this Agreement.

### **4.3 Conduct of Operations by the CATS Parties and CATS Operator**

Without prejudice to the obligation of the CATS Parties and the CATS Operator to act as a Reasonable and Prudent Operator hereunder, the CATS Parties reserve to themselves the right to decide the method and manner in which they shall conduct all operations with respect to the CATS System.

### **4.4 Shipper's Consents**

- (a) The Shipper shall use all reasonable endeavours to obtain and maintain in full force and effect, or procure the obtaining and maintenance in full force and effect of, governmental and official consents, licences or approvals and any amendments or modifications thereto required to be obtained to enable the Shipper to deliver Shipper Gas in accordance with the terms of this Agreement.
- (b) If any such consent, licence or approval is terminated or withdrawn, the Shipper shall use reasonable endeavours to renew or replace the same; provided that, in using such reasonable endeavours, the Shipper shall not be obliged to accept any renewal or replacement, as the case may be, on terms which may be in any way materially more onerous to the Shipper than those on which the licence or consent was previously enjoyed by the Shipper.

### **4.5 CATS Parties' Consents**

- (a) The CATS Parties shall use all reasonable endeavours to obtain and maintain in full force and effect, or procure the obtaining and maintenance in full force and effect of, governmental and official consents, licences or approvals and any amendments or modifications thereto required to be obtained to enable the CATS Parties to perform the Service in accordance with the terms of this Agreement.

- (b) If any such consent, licence or approval is terminated or withdrawn, the CATS Parties shall use reasonable endeavours to renew or replace the same; provided that, in using such reasonable endeavours, the CATS Parties shall not be obliged to accept any renewal or replacement, as the case may be, on terms which may be in any way materially more onerous to the CATS Parties than those on which the licence or consent was previously enjoyed by the CATS Parties.

#### **4.6 Termination for Failure to obtain Consents**

Without prejudice to Articles 4.4(b) or 4.5(b), the CATS Parties or the Shipper may terminate this Agreement upon six (6) months written notice if any governmental or official licence, consent or approval required for the production of Shipper Gas or the provision of the Service is terminated or withdrawn and not, by the expiration of such notice, renewed or replaced.

#### **4.7 Access to Facilities**

- (a) The Shipper shall procure that the authorised representatives of the CATS Operator and/or the CATS Parties shall have the right from time to time of reasonable access to any part or all of the Shipper Field Facilities and where applicable the Host Facilities for the purposes provided for in Article 4.7(c); provided that the Shipper shall be under no obligation to procure such access for more than two (2) representatives of the CATS Parties if, in the sole opinion of the Shipper, this may interfere with the safe and efficient operation of the Shipper Field Facilities or where applicable the Host Facilities.
- (b) The CATS Parties shall procure that the authorised representatives of the Shipper shall have the right from time to time of reasonable access to any part or all of the CATS System for the purposes provided for in Article 4.7(c); provided that the CATS Parties shall be under no obligation to procure such access for more than two (2) representatives

of the Shipper if, in the sole opinion of the CATS Parties, this may interfere with the safe and efficient operation of the CATS System.

- (c) The purposes referred to in Articles 4.7(a) and 4.7(b) shall be as follows:
  - (i) ensuring that the Shipper has complied with, and is complying with its obligations under Article 4.1(a) and (b);
  - (ii) witnessing meter proving, calibration, measurement, sampling and analysis; and
  - (iii) investigating the scene of any incident giving rise to any claim of Force Majeure.

#### **4.8 Liabilities in connection with Access**

Access shall be granted pursuant to this Article 4 at the cost of the Party seeking access. For the avoidance of doubt, the provisions of Article 15 shall apply with respect to personal injury or death or damage, destruction or loss of property arising out of access granted pursuant to Article 4.7.

### **ARTICLE 5 - DELIVERY POINT, REDELIVERY POINT AND DELIVERY CONDITIONS**

#### **5.1 Delivery Point**

The Shipper shall tender Shipper Gas for delivery at the Delivery Point.

#### **5.2 Redelivery Point**

The CATS Parties shall redeliver Redelivery Gas at the Redelivery Point.

### **5.3 Product Redelivery Point**

The CATS Parties shall redeliver Shipper Product at the Product Redelivery Point.

### **5.4 Delivery Specification**

The Shipper shall ensure that Shipper Gas complies with the Delivery Specification at the Delivery Point.

## **ARTICLE 6 - NON-SPECIFICATION DELIVERY CONDITIONS**

### **6.1 Notification of Non-specification Gas**

- (a) The Shipper shall procure that the Shipper Group Operator shall notify the CATS Operator at the earliest practicable opportunity if the Shipper Gas has failed, is failing, or is likely to fail to meet the Delivery Specification and the Shipper will take all practicable steps to mitigate the extent of such failure.
- (b) In the event that the Shipper delivers Non-Specification Gas without notice having been given in accordance with Article 6.1(a), then the CATS Operator shall advise the Shipper Group Operator of such deliveries as soon as reasonably practicable after becoming aware of the same.

### **6.2 CATS Parties' Refusal to Accept Non-specification Gas**

- (a) Subject to Article 6.3(b), in the event that the Shipper tenders for delivery Non-Specification Gas at the Delivery Point at any time, the CATS Parties may, at their discretion, refuse to accept such Shipper Gas at such point and/or may take any operational action (including

flaring and/or venting the same at a convenient location) in order to dispose of any such Shipper Gas.

- (b) If the CATS Parties refuse to accept Non-Specification Gas pursuant to Article 6.2(a), the Shipper shall indemnify the CATS Parties and the CATS Operator in respect of any and all Loss (including loss or deferral of tariff income and the costs of clearing, cleaning and/ or of repairing or replacing any part of the CATS System) incurred as a result of the delivery at the Delivery Point by the Shipper of Non- Specification Gas or in or as a result of taking any actions referred to in Article 6.2(a) irrespective of the negligence or breach of duty (statutory or otherwise) of the CATS Capacity Parties but not in the event of Wilful Misconduct of the CATS Parties or the CATS Operator;
- (c) Provided that the Shipper has acted promptly in accordance with any instructions received from the CATS Operator in respect to Non-Specification Gas (including instructions to restrict or cease delivery of Shipper Gas), the liability of the Shipper under Article 6.2 (b) shall be subject to an upper limit of the Indemnity Cap per Occurrence.

### **6.3 Conditions on Accepting off-specification Gas**

- (a) If the Shipper requests that the CATS Parties accept Non-Specification Gas the CATS Parties may, from time to time, propose a waiver of one or more elements of the Delivery Specification, the duration of such waiver, and appropriate terms and conditions for such waiver which terms and conditions are, inter alia, designed to safeguard the safety, integrity, environmental performance of the CATS System, and/or to provide reimbursement and/or indemnification in respect of any additional costs incurred and/or any increased risks being taken by the CATS Parties as a result of the acceptance of such Non-Specification Gas, and/or to ensure that the CATS Parties continue to meet their obligations to other CATS Users.



- (b) Following agreement of the Shipper to the terms and conditions of the waiver referred to in Article 6.3(a), the Shipper shall be entitled to deliver Non-Specification Gas in accordance with and for the duration of such waiver.
- (c) Notwithstanding the specified duration for the waiver, the CATS Parties may give notice at any time to terminate the waiver.
- (d) Without prejudice to Articles 6.2 (a) and 6.3(b), and provided always that in circumstances where the Shipper is aware or anticipates that Shipper Gas will not meet the Delivery Specification the Shipper makes a request pursuant to 6.3(a), the CATS Parties shall use reasonable endeavours to accept Non-Specification Gas and shall use reasonable endeavours to provide that part of the Service specified in Articles 7.2 (a), (c) (d), (e), (f) and (g) in respect of such Shipper Gas; and
- (e) If the CATS Parties accept Non-Specification Gas the Service in respect of such Non-Specification Gas shall be deemed to have been provided.

#### **6.4 Uniform and Constant Delivery**

So far as reasonably practicable, the Shipper shall ensure that deliveries of Shipper Gas at the Delivery Point are at a uniform and constant rate.

#### **6.5 Mercury**

- (a) The Shipper shall as soon as reasonably practicable and prior to commencement of deliveries of Shipper Gas at the Delivery Point, determine whether Shipper Gas to be tendered for delivery at the Delivery Point from the Commencement Date is likely to have a mercury content in excess of 0.01 microgrammes per Cubic Metre. Such determination shall be carried out by the Approved Mercury Testing Contractor at the cost of the Shipper. The Shipper shall procure that the Shipper Group Operator shall as soon as reasonably practicable after

such determination provide the CATS Operator with:-

- (i) a copy of any test results;
- (ii) details of the testing procedures used;
- (iii) details of any circumstances which might materially affect the test results; and
- (iv) any reports made by the Approved Mercury Testing Contractor.

(b) Following commencement of delivery of Shipper Gas into the CATS Facilities, the Shipper shall at its cost procure that the Approved Mercury Testing Contractor tests three (3) samples of the stream of Shipper Gas to be delivered at the Delivery Point, so as to determine the mercury content of Shipper Gas. Such tests shall be carried out and samples taken in accordance with the Mercury Measurement Procedures and the samples shall be taken at approximate evenly spaced intervals in the six (6) month period following the expiry of two (2) months after first delivery of Shipper Gas into the CATS Facilities. The mercury content of Shipper Gas as determined from such tests shall be deemed to be the arithmetic mean of the mercury contents of each of the three (3) samples. The Shipper shall procure that the Shipper Group Operator shall as soon as reasonably practicable thereafter provide the CATS Operator with:-

- (i) a copy of any such test results;
- (ii) details of the testing procedures used;
- (iii) details of any circumstances which might materially affect the test results; and
- (iv) any reports made by the Approved Mercury Testing Contractor.

(c) The CATS Parties may at any time and from time to time (but not more frequently than is considered by the CATS Parties to be reasonably necessary in the circumstances) require that the Shipper shall, at the cost of the Shipper, arrange for the Approved Mercury Testing Contractor to test a further sample of Shipper Gas, by individual well or wells if

considered appropriate in the circumstances by the CATS Parties, in accordance with the Mercury Measurement Procedures. The Shipper Group Operator shall provide the CATS Operator with:-

- (i) a copy of any such test results;
- (ii) details of the testing procedures used;
- (iii) details of any circumstances which might materially affect the test results; and
- (iv) any reports made by the Approved Mercury Testing Contractor.

## **ARTICLE 7 - RIGHTS OF TRANSPORTATION PROCESSING AND DELIVERY**

### **7.1 New Entrant Co-ordination Process**

(a) No later than the date which is six (6) Months prior to the Commencement Date, the CATS Operator and the Shipper Group Operator shall meet and agree the actions required prior to the commencement of the Service to enable the CATS Parties and the Shipper to comply with their obligations under this Agreement (such actions to include all applicable new entrant co-ordination actions listed in the CATS Technical Brochure and any other actions that may be reasonably required by the CATS Operator), the assignment of responsibility for each such action (being the CATS Operator in respect of CATS Parties' actions and the Shipper Group Operator in respect of actions required of the Shipper or any other Person involved in delivering Shipper Gas to the Delivery Point) and the schedule for the completion thereof (the "New Entrant Co-ordination Process"). The schedule will provide that all acts under the New Entrant Co-ordination Process should be completed prior to the Commencement Date.

- (b) Following agreement of the New Entrant Co-ordination Process, the CATS Operator and the Shipper Group Operator shall complete the

actions for which they are responsible in accordance with the agreed schedule. The Shipper Group Operator shall notify the CATS Operator, and the CATS Operator shall notify the Shipper Group Operator, when all the actions for which it is responsible have been completed.

## **7.2 The Service**

Subject to Article 2.3(a) of Section I, with effect from the Commencement Date and until termination of this Agreement, the CATS Parties shall provide the Service. The Service shall mean a service whereby, subject to the terms of this Agreement, the CATS Parties shall:

- (a) make available capacity in the CATS Facilities equal to the DRCR;
- (b) accept Shipper Gas at the Delivery Point meeting the Delivery Specification up to the DRCR;
- (c) transport such Shipper Gas through the CATS Facilities in a single or commingled stream;
- (d) carry out at the CATS Terminal such processing of Shipper Gas as may be necessary in order that the Redelivery Specification and the Product Specification shall be met;
- (e) deliver Redelivery Gas at the Redelivery Point meeting the Redelivery Specification;
- (f) deliver Shipper Product at the Product Redelivery Point meeting the Product Specification; and
- (g) procure that the CATS Operator shall administer the redelivery of Redelivery Gas and Shipper Product in accordance with the CATS Allocation Agreements.

### **7.3 Obligation to Evacuate Redelivery Gas**

- (a) The Shipper shall, provided that the same complies with the Redelivery Specification, accept or procure the acceptance of Redelivery Gas at the Redelivery Point and shall evacuate the same from the CATS Facilities.
- (b) The Shipper shall, where the failure of Redelivery Gas to meet the Redelivery Specification is caused by the failure of Shipper Gas to comply with the Delivery Specification at the Delivery Point and/or any terms and conditions agreed pursuant to Article 6.3(b), accept or procure the acceptance of Non-Specification Redelivery Gas at the Redelivery Point and shall evacuate the same from the CATS Facilities.
- (c) Without prejudice to Article 7.3(b), the Shipper shall use reasonable endeavours to accept and evacuate or procure the acceptance and evacuation of Non-Specification Redelivery Gas at the Redelivery Point and/or at other points of redelivery and, in the event of such acceptance and evacuation, the CATS Parties shall be deemed to have fulfilled their obligations under Article 7.2 (e) in respect thereof. The Shipper shall procure that corresponding and equivalent reasonable endeavours obligations are placed on all its gas buyers in relation to the acceptance of Non-Specification Redelivery Gas.
- (d) Without prejudice to Articles 7.3(a) 7.3(b) or 7.3(c), if, for any reason, Shipper Gas, Redelivery Gas, Non-Specification Gas and/or Non-Specification Redelivery Gas is not being or, in the sole opinion of the CATS Parties, may not be evacuated satisfactorily from the CATS Facilities, the CATS Parties may take any operational action which they may, in their sole and absolute discretion, think fit to alleviate such situation, including venting and/or flaring and/or selling such gas at a convenient location and the Shipper hereby authorises the CATS Parties to make any such sale of Shipper Gas, Redelivery Gas, Non-Specification Gas and/or Non-Specification Redelivery Gas under this Article 7.3(d). The Shipper shall be liable for all Loss arising, whether at that time or later, as a direct result of any such operational action. If

the CATS Parties obtain a sales price for any Shipper Gas, Redelivery Gas, Non-Specification Gas and/or Non-Specification Redelivery Gas sold pursuant to this Article 7.3(d) they shall account to the Shipper for such price less any Loss incurred by the CATS Parties in obtaining such sales price and in taking action under this Article 7.3(d) and in the event that the CATS Parties do not obtain a sales price or the sales price does not cover such Loss the CATS Parties shall invoice the Shipper and the Shipper shall pay to the CATS Parties the amount of such Loss or the balance as the case may be.

- (e) For the avoidance of doubt Non-Specification Redelivery Gas will be deemed to have been accepted and evacuated by the Shipper if it has been accepted into the NTS or into any relevant local distribution system at Teesside regardless of the state of and/or the Shipper's knowledge as to the state of the Non-Specification Redelivery Gas.

#### **7.4 Obligation to Evacuate Shipper Product**

- (a) The Shipper shall, provided that the same complies with the Product Specification, accept or procure the acceptance of Shipper Product at the Product Redelivery Point and shall evacuate the same from the CATS Facilities.
- (b) The Shipper shall, where the failure of Shipper Product to comply with the Product Specification is caused by the failure of Shipper Gas to comply with the Delivery Specification at the Delivery Point and/or any terms and conditions agreed pursuant to Article 6.3(b), accept or procure the acceptance of such Shipper Product at the Product Redelivery Point and shall evacuate the same from the CATS Facilities.
- (c) Without prejudice to Article 7.4(b), the Shipper shall use reasonable endeavours to accept and evacuate or procure the acceptance and evacuation of Non-Specification Shipper Product at the Product Redelivery Point and/or at other points of redelivery and, in the event of

such acceptance and evacuation, the CATS Parties shall be deemed to have fulfilled their obligations under Articles 7.2 (f) in respect thereof. The Shipper shall procure that corresponding and equivalent reasonable endeavours obligations are placed on all relevant storage companies and purchasers in relation to the acceptance of Non- Specification Shipper Product.

- (d) Without prejudice to Articles 7.4(a), 7.4(b) and 7.4(c) if, for any reason, any Shipper Product or Non-Specification Shipper Product is not being, or in the sole opinion of the CATS Parties, may not be evacuated satisfactorily from the CATS Facilities, the CATS Parties may take any operational action which they may, in their sole and absolute discretion think fit, to alleviate such situation, including venting and/or flaring and/or selling such Shipper Product or Non- Specification Shipper Product at a convenient location and the Shipper hereby authorises the CATS Parties to make any such sale of Shipper Product or Non-Specification Shipper Product under this Article 7.4(d). The Shipper shall be liable for all Loss arising, whether at that time or later, as a direct result of any such operational action. If the CATS Parties obtain a sale price for any Shipper Product or Non- Specification Shipper Product sold pursuant to this Article 7.4(d), they shall account to the Shipper for such sales price less any Loss incurred by the CATS Parties in obtaining such sales price and in taking action under this Article 7.4(d) and in the event that the CATS Parties do not obtain a sales price or the sales price does not cover such Loss the CATS Parties shall invoice the Shipper and the Shipper shall pay to the CATS Parties the amount of such Loss or the balance as the case may be.
- (e) For the avoidance of doubt Non-Specification Shipper Product will be deemed to have been accepted by the Shipper if it has been accepted and evacuated by the relevant storage company or purchaser regardless of the state of and/or the Shipper's knowledge as to the state of the Non-Specification Shipper Product.

### **7.5 Use of CATS System Capacity by CATS Parties**

Subject to the other terms and conditions of this Agreement, the CATS Parties shall be free at any time to utilise themselves or to contract with one or more third parties for the use of or to allocate among the CATS Users all capacity in the CATS System, other than the capacity reserved by this Agreement, on such terms as the CATS Parties in their absolute discretion think fit.

### **7.6 Commingling of Shipper Gas with CATS Gas**

Without prejudice to the obligations of the CATS Parties contained in this Agreement, the CATS Parties hereby reserve to themselves the right to commingle Shipper Gas with any other CATS Gas and/or to commingle Shipper Product with any other CATS Product.

### **7.7 Use of Shipper Gas by CATS Parties**

The CATS Parties shall have the right to use Shipper Gas for the following purposes:

- (a) in the operation of the CATS System or any part thereof to the extent and in the proportions permitted under the CATS Allocation Agreements;
- (b) in the commissioning of any modification or replacement of any part of the CATS System to the extent and in the manner provided for in the CATS Allocation Agreements;
- (c) in the dewatering of pipelines and related facilities connected to the CATS System to the extent and in the manner provided for in the CATS Allocation Agreements; and
- (d) as linefill provided that any Shipper Gas delivered into the CATS System for the purposes of linefill shall be redelivered to the Shipper on



the termination of this Agreement in accordance with the CATS Allocation Agreements.

### **7.8 Inability to Deliver at Redelivery Point or Product Redelivery Point**

If the CATS Parties are unable to deliver Redelivery Gas and/or Shipper Product at the Redelivery Point and/or Product Redelivery Point, as the case may be, the Shipper shall, if requested by the CATS Parties, use reasonable endeavours to accept and evacuate or procure the acceptance and evacuation of Redelivery Gas and/or Shipper Product delivered at other points of delivery. Any such delivery shall be deemed to be a fulfilment of the CATS Parties' obligations under Articles 7.2(e) and (f), as the case may be.

## **ARTICLE 8 - SUSPENSION/REDUCTION OF SERVICES AND MAINTENANCE**

### **8.1 Rights of Suspension/Maintenance**

The CATS Parties shall have the right to suspend and/or reduce the quantities of Shipper Gas received at the Delivery Point in the event:

- (a) that the Shipper fails to comply with laws or regulations, relevant to its performance, or is in breach of any provisions, of this Agreement or the CATS Allocation Agreements;
- (b) of Maintenance Operations in accordance with Article 8.4;
- (c) of the performance of any works pursuant to Article 13;
- (d) of the tie-in of other fields to the CATS System;
- (e) that, for any reason, Redelivery Gas or any Shipper Product (including, for the avoidance of doubt, any Non-Specification Redelivery Gas or any Non-Specification Shipper Product) is not, in the CATS Operator's reasonable opinion, being accepted and/or satisfactorily evacuated from

the CATS Facilities;

- (f) that during any period the total quantity of CATS Gas nominated to enter the CATS Facilities or any part thereof from all the CATS Users on any Day is less than the quantity of Natural Gas from time to time established by the CATS Operator as the minimum quantity of Natural Gas required for the operation of the CATS Facilities or such part thereof;
- (g) that the Shipper or any one of the parties making up the Shipper (“the Individual Shipper”) voluntarily seek protection from its or their creditors or in the event that insolvency proceedings are initiated in respect of the Shipper or any Individual Shipper unless the other party or parties making up the Shipper (the Remaining Shipper(s)) has made arrangements which are acceptable to the CATS Parties (such decision being under the CATS Parties sole discretion) to ensure continued payment of all amounts due under this Agreement. In such event, and should no such acceptable arrangement have been made, the CATS Parties shall have the right to take title to any Shipper Gas delivered into the CATS System not previously redelivered and the CATS Parties may offset the proceeds gained from any sale of such Shipper Gas against any amounts owing hereunder as at the time of such suspension;
- (h) subject to Article 10.8(c), that the Shipper fails to pay any amounts due under this Agreement;

provided that, when the circumstances which led to suspension have been resolved or completed to the satisfaction of the CATS Parties, the CATS Parties shall recommence provision of the Service.

## **8.2 Suspension for Environmental and other problems**

The CATS Parties shall also have the right to suspend and/or reduce receipt of Shipper Gas at the Delivery Point and/or vent and/or flare Shipper Gas or Shipper Gas commingled with other CATS Gas in the event of system integrity, environmental, pollution or safety problems relating to the CATS System or any

part thereof or any breakdown or failure of equipment within the CATS System or any emergency involving the safeguarding of lives or property. The Shipper shall be liable for a share of Additional Costs (“Shipper Additional Costs Share”) whether at that time or later as a direct result of such operational action. Such Shipper Additional Costs Share shall be such proportion of Additional Costs (excepting any part of such cost arising as a direct consequence of the CATS Operator failing to act as a Reasonable and Prudent Operator) as the Shipper’s throughput in the relevant part of the CATS System over the previous 12 Months bears to the total throughput of all CATS Users in the relevant part of the CATS System over the previous 12 Months.

### **8.3 Allocation of Available Capacity**

In the event capacity in the CATS System or any part thereof is not or will not be available for the provision of the Service, available capacity shall be allocated to CATS Users in accordance with the CATS Allocation Agreements.

### **8.4 Maintenance Operations**

- (a) The CATS Operator shall notify the Shipper Group Operator of proposed Maintenance Operations and its estimate of the reductions of capacity in the CATS Facilities as a result thereof in accordance with the following:
  - (i) the first notification shall be made in November, of the Contract Year in which the Maintenance Operation will be carried out;
  - (ii) in the following March, any revisions shall be notified;
  - (iii) the actual dates and reductions in capacity shall be notified not less than fifty (50) Days prior to the beginning of the Maintenance Operation.
  
- (b) The CATS Parties shall use reasonable endeavours to conduct Maintenance Operations in order to minimise the reduction in capacity of the CATS Facilities during Maintenance Operations.

- (c) Without prejudice to Articles 15 and 17, the CATS Parties shall use reasonable endeavours to ensure that any planned Maintenance Operations which the CATS Operator anticipates will have an impact on the capacity in the CATS Facilities shall comply with the following requirements:
  - (i) such Maintenance Operations shall be carried out during the period from 1st May to 30th September; and
  - (ii) the total number of Days in any Contract Year for such Maintenance Operations shall not exceed twenty-one (21).

## **ARTICLE 9 – TARIFFS**

### **9.1 Tariff Payment /Fee**

For the provision of the Service in respect of Shipper Gas the Shipper shall in respect of each Month pay either the Tariff Payment or the Fee (as applicable) due in respect of such Month.

### **9.2 Tariff Adjustment Provisions**

- (a) All intermediate calculations to ascertain the Tariff shall be made to eight (8) places of decimals without rounding and the final product shall be rounded to the fourth (4<sup>th</sup>) decimal whereby a figure of five thousand (5,000) or more in the last four (4) of such (8) eight places of decimals shall cause a rounding up of the fourth (4<sup>th</sup>) decimal.
- (b) In the application of the formula the latest figures needed to calculate PPI in which are available on the last Day of the Review Month (whether the same are published in final or provisional form) shall be used to calculate the Tariff and save as expressly specified in Article 9.3 shall not be adjusted consequent upon such figures being subsequently published in amended form.

### 9.3 Circumstances Affecting Producer Price Index

- (a) If in any Review Month it is found that the Producer Price Index has been rebased to a different year and/or that a change has occurred in the weightings and/or classification of the Producer Price Index during the data period used in the calculation of the Tariff then a revised value of PPIo shall be calculated in accordance with Article 9.6.
  
- (b) If in any Review Month, in the opinion of either Party, the Tariff cannot be properly calculated as a result of any of the following circumstances (hereinafter referred to as an “Event”) affecting the Producer Price Index:
  - (i) the non-availability of one or more of the values required to calculate PPI<sub>n</sub> (whether permanent or temporary);
  - (ii) an error is contained in one or more of the published values required to calculate PPI<sub>n</sub>;
  - (iii) The Producer Price Index having been changed in the basis on which it is calculated (including, without limitation, the basis on which it is compiled), or in the quality or type of commodity included therein, so as materially to affect the validity of the Producer Price Index comparison over time other than (for the avoidance of doubt) any change arising from the changes in the consumption pattern upon which the Producer Price Index was based

then it shall notify the other Party thereof and the Parties shall meet, and seek in good faith, to agree on whether the Event has occurred and, if so, on a means whereby the effect of such Event can be removed by adjustment to or replacement of PPI<sub>n</sub> and/or its corresponding denominator, PPI<sub>o</sub>.

- (c) If within ninety (90) days of the service of such notice the Parties are able to agree that an Event has occurred, and on a means for removing its effect, then the Parties shall adopt the agreed means from the first Day of the Review Month.
- (d) If the Parties are unable to agree that an Event has occurred within such ninety (90) days as aforesaid then either Party may refer the matter to an Expert in accordance with Article 19 who shall determine whether such Event has occurred.
- (e) If such Expert determines that no such Event has occurred then the Tariff shall be calculated as if no reference had been made under this Article 9.3, but if the Expert determines that an Event has occurred the Parties shall meet and seek in good faith to agree upon a means of removing the effect of such Event from the calculation of the Tariff.
- (f) If the Parties are able to agree on such means as aforesaid within thirty (30) days of such Expert determination such agreed means shall be adopted with effect from the first day of the Review Month.
- (g) If the Parties are not able to agree within such period of thirty (30) days on a means of removing the effect of the Event (after it has been agreed or determined that an Event has occurred) the matter may be referred by either Party to the Expert or (if the occurrence of the Event has been the subject of previous determination by an Expert) back to the Expert in question who shall thereupon determine a means for removing the effect of the Event as aforesaid. Provided that if the Expert in question is unavailable or declines to act another Expert may, at the request of either Party, be appointed pursuant to Article 19 to determine such means as aforesaid.
- (h) Once such Expert has determined a means for removing the effect of the Event in question such means shall be adopted by the Parties from the first day of the Review Month.

- (i) When the Parties have agreed or the Expert has determined a means for removing the effect of the Event then it shall not subsequently be amended in respect of the Contract Year(s) for which it is to be used even if the relevant values subsequently become available or are corrected.

#### **9.4 Reference to Expert**

- (a) Except as provided in Article 9.3(g), only one reference to an Expert under Article 9.3 may be made by a Party in respect of the same set of circumstances that constitute an Event.
- (b) If it is agreed or determined that the pre-conditions of 9.3(b)(i) are satisfied the Expert will provide a substitute index or combination of indices as close as possible in type to the Producer Price Index with such adjustments only thereto as may be necessary to reflect as closely as possible the movements of the Producer Price Index and shall in the same manner (if required) provide an appropriate value to be used as a substitute PPIo value.
- (c) If it is agreed or determined that the pre-conditions of Article 9.3(b)(ii) are satisfied and the Expert is requested to make an appropriate amendment or replacement the Expert will confine himself to correcting the error.
- (d) If it is agreed or determined that the pre-conditions of Article 9.3(b)(iii) are satisfied and the Expert is requested to make an appropriate amendment or replacement he shall make such adjustments to the Producer Price Index (and if appropriate the PPIo value) as may be required to restore the validity of index comparison over time or if the Expert determines that this is not possible he shall substitute an alternative index together with an appropriate value to be used for PPIo in the manner described in Article 9.4 (b) above.

## **9.5 Calculation of Tariff**

If at the end of the Review Month the Tariff is not capable of calculation in accordance with the foregoing provisions of this Article 9 then a provisional tariff (the “Provisional Tariff”) shall be calculated in the same manner as the Tariff but using in respect of any value which is not available or the subject of dispute under this Article 9 the latest available undisputed values but if no undisputed value is available then the PPI<sub>n</sub> value from the previous calculation of the Tariff shall be used and where no previous calculation of the Tariff has been made then the value of PPI<sub>n</sub> shall be equal to the value of the denominator, PPI<sub>o</sub>. Until the Tariff can be calculated or, pursuant to the provisions of Article 9.4, be determined by the Expert then (subject to retroactive adjustment as hereinafter provided) the Provisional Tariff shall be deemed to be the Tariff for all purposes of this Agreement. Once the figures required to calculate the Tariff have all become available and any related dispute has been finally settled the Tariff shall be calculated for such Contract Year and shall have retroactive effect to the commencement of such Contract Year and any over-payment or under-payment hereunder made due to the application of the Provisional Tariff shall be shown in the next monthly statement following calculation of the Tariff and shall be paid with interest at LIBOR from the date of any over or under payment to the date of payment.

## **9.6 Revised Denominator**

- (a) A revised value of the denominator, PPI<sub>o</sub>, as required under the terms of Article 9.3(a), shall be calculated as follows:
  - (i) a conversion factor shall be calculated by dividing the arithmetic total of the monthly values of the Producer Price Index on the previous base year and weightings and classification by the arithmetic total of the monthly values of the Producer Price Index on the new base year and weightings and classification for all those months for which values are published up to the Month in question (or if not published made available by the same authority) on both the previous base year and weightings and



classification and the new base year and weightings and classification, but if the number of months for which values are published or made available by the same authority is greater than sixty (60) then the number of months used in the calculation of the conversion factor shall be limited to the latest sixty (60) months; and

- (ii) the denominator PPIo (or its successor as agreed or determined) which was immediately previously used shall then be divided by the conversion factor obtained in Article 9.6(a)(i) to obtain a revised denominator PPIo for use with the monthly values of the Producer Price Index on the new base year and weightings and classifications.
  
- (b) Notwithstanding the provisions of Article 9.3(a), in the event that a revision to the Standard Industrial Classification, which affects the groups within the classes of the divisions which constitute the Producer Price Index (or its successor as agreed or determined), has occurred since the last Review Month resulting in the addition of a new group or the exclusion of a group formerly included then:
  - (i) the respective aggregates of the percentage weightings of the groups being included or excluded shall in either case be added together (any contemporaneous adjustments in the weightings of existing groups being disregarded for this purpose); and
  - (ii) if the changes in the percentage weightings so added together amount to more than seven (7) percent and, if in the opinion of either Party, the Producer Price Index is so changed as to affect significantly the validity of index comparison over time, and such Party believes that such change is for reasons which do not arise from changes in the consumption patterns upon which

the Producer Price Index is based, then such Party shall have the right to require that Article 9.3(b) shall apply instead of the provisions of Article 9.3(a).

- (c) If either Party wishes to exercise the right referred to in Article 9.6(b) it shall give notice under Article 9.3(b)(iii) (which Article shall thereupon apply to the matter).

## **ARTICLE 10 - BILLING AND PAYMENT**

### **10.1 Issuance of Statement and Division Order of Payment**

Promptly following the last Day of each Month, the CATS Parties shall procure that the CATS Operator shall issue a statement and Division Order of Payment to the Shipper Group Operator for the Tariff Payment and Excess Gas Tariff Payment or the Fee for such Month. A copy of the statement and the Division Order of Payment shall also be sent to the CATS Parties.

### **10.2 Contents of Statements and Division Orders of Payment**

- (a) The statement issued pursuant to Article 10.1 in respect of the Tariff Payment and Excess Gas Tariff Payment shall show:
  - (i) the DRCCR in respect of each Day of the relevant Month;
  - (ii) the total quantity of Shipper Gas delivered into the CATS System during such Month, identifying that portion of such total quantity of Shipper Gas which was accepted on a reasonable endeavours basis;
  - (iii) any Value Added Tax payable for the relevant Month;
  - (iv) any adjustments to reflect previous over-payments and/or under-payments (each adjustment stated separately);
  - (v) any interest charged in respect of any amounts owed;

- (vi) the amount payable in accordance with Article 5.1 and Article 5.3 of Section I; and
  - (vii) for the statement issued in the Month of November the amount of the Annual Excess Gas, the Reconciled Annual Excess Gas Payment and any applicable adjustments in respect thereof, for the preceding Contract Year in accordance with Article 5.3 of Section I.
  - (viii) any other charges, costs and/or credits properly due in respect of the relevant Month under this Agreement.
- (b) The statement(s) issued pursuant to Article 10.1 in respect of the Fee calculated in accordance with Article 12.1 shall show
- (i) the DRCR in respect of each Day of the relevant Month;
  - (ii) the aggregate of the Maximum Daily Rates of Delivery to which all CATS Users are entitled in the CATS System, or relevant part thereof, are entitled;
  - (iii) the total cost for the relevant Month of operating the CATS System;
  - (iv) any Value Added Tax payable for the relevant Month;
  - (v) any adjustments to reflect previous over-payments and/or underpayments (each adjustment stated separately);
  - (vi) the amount payable in accordance with Article 5.2 of Section I which shall for each Month be one twelfth of the estimate of the Fee for the relevant Contract Year made in accordance with Article 12.1(b)(ii);
  - (vii) where applicable the amount payable or the credit calculated in accordance with Article 12.1(b)(iii);
  - (viii) any interest charged in respect of any amounts owed; and
  - (ix) any other charges and/or costs properly due in respect of the relevant Month under this Agreement.
- (c) The Division Order of Payment(s) issued pursuant to Article 10.1 shall specify:

- (i) the percentage interest of each CATS Party;
- (ii) the V.A.T registration number of each CATS Party and such information as is required, from time to time, by H.M. Revenue & Customs.

### **10.3 Payment of Sums Due**

Subject to Article 10.4, not later than the tenth Day after the Shipper Group Operator has received the relevant statement and Division Order of Payment in accordance with Article 10.2, the Shipper Group Operator shall pay to each CATS Party the amount shown on the said Division Order of Payment as being due to such CATS Party. Such payment shall be made in Pounds by wire transfer or equivalent instantaneous transfer of funds for value on the Day in question by the Shipper Group Operator to the bank account of the CATS Party in question specified in the statements, quoting the statement number against which payment is made.

### **10.4 Calculation of Due Date**

Should the original due date for any payment pursuant to Article 10.3 not be a Working Day, then the due date shall be the Working Day last preceding the original due date.

### **10.5 Value Added Tax**

If applicable, the CATS Operator or the CATS Parties shall render to the Shipper Group Operator an invoice valid for VAT purposes. Any Value Added Tax or any tax analogous thereto properly chargeable in respect of any supply of goods or services made pursuant to this Agreement shall be paid by the Shipper Group Operator in addition to the amounts provided for herein.

**10.6 Royalties, Taxes etc.**

(a) Tariff Payments do not include and, as between the Parties, the Shipper shall bear any royalties, taxes, port and terminal duties, other duties (including any excise or customs duties but excluding any excise duty chargeable on hydrocarbon oil pursuant to the U.K. Hydrocarbon Oil Duties Act 1979 which are the subject of Article 10.6(b) or any other tax, duty or levy analogous thereto which may be imposed from time to time, which is the subject of Article 10.6(b)), or levies imposed upon:

- (i) the production, importation, sale, appropriation or other disposition of or revenue from Shipper Gas and/or Redelivery Gas and/or any Shipper Product derived therefrom; or
- (ii) the transportation, processing, handling, storage or delivery of Shipper Gas and/or Redelivery Gas and/or any Shipper Product to the extent such activity does not constitute part of the Service;

other than, in either case, taxes referred to in Article 10.6(c). If, due to any act or omission by the Shipper, the CATS Parties pay any such taxes, duties or levies which are not recoverable using reasonable endeavours or interest thereon or penalties, the CATS Parties shall be entitled to recover any Loss resulting from the payment of such sums from the Shipper upon proof of payment.

(b) The Shipper covenants to pay or cause to be paid to H.M. Revenue & Customs any excise duty chargeable on hydrocarbon oil pursuant to the U.K. Hydrocarbon Oil Duties Act 1979 or any other tax, duty or levy analogous thereto payable by the Shipper as a result of the importation, delivery, use or sale of Shipper Gas, Redelivery Gas and/or any Shipper Product (regardless of whether said tax, duty or levy is assessed at a point prior to, on, or after delivery of such gas into the CATS Facilities, and against whichever Party such tax, duty or levy may be assessed). In the event that the CATS Parties become liable, pursuant to any

legislation enacted after the Effective Date, to pay any such tax, duty or levy or if, due to any act or omission by the Shipper, the CATS Parties pay any such tax, duty or levy which is not recoverable using reasonable endeavours or interest thereon or penalties, the CATS Parties shall be entitled to recover any Loss resulting from the payment of such sums from the Shipper upon proof of payment.

- (c) As between the Parties, the CATS Parties shall bear any taxes, duties or other levies arising from or levied with reference to the provision of the Service or the ownership or operation of the CATS System, including without limitation any taxes upon the income of the CATS Parties arising therefrom.
- (d) If any new tax, duty or levy not applicable on the Effective Date becomes payable pursuant to any legislation enacted after the Effective Date, the Parties shall meet within sixty (60) days after the request of any Party to discuss whether such new tax, duty or levy is payable by the Shipper or the CATS Parties in accordance with the foregoing provisions of this Article 10.6. If within sixty (60) days following such meeting the Parties are unable to reach agreement about whether the Shipper or the CATS Parties are responsible for payment of the new tax, levy or duty under the terms of this Article 10.6 either the Shipper or the CATS Parties may refer the matter to an Expert for determination in accordance with Article 19.

## **10.7 Amounts in Dispute**

Whether or not any amounts billed are disputed, the whole amount of each invoice hereunder shall be paid, except in the case of fraud or manifest error. Where any amounts billed are disputed, the Shipper Group Operator shall notify the CATS Operator of the amount(s) in dispute at the time of making payment of the invoice or as soon as possible thereafter and, in any event, no later than twelve (12) months after the end of the Contract Year to which the

invoice related. For a period of thirty (30) days from the date of receipt by the CATS Operator of the notification of any disputed amount(s), the Shipper Group Operator and the CATS Operator shall endeavour to resolve the dispute. If the dispute is not resolved within thirty (30) days of receipt of the notification of the dispute, the dispute may be referred to an Expert for determination in accordance with Article 19 hereof. If the dispute is ultimately resolved or determined in favour of the Shipper, the CATS Parties shall repay to the Shipper Group Operator the difference between the original invoice amount paid by the Shipper Group Operator and the final agreed amount together with interest equal to the LIBOR plus zero point five per cent (0.5%), such interest being calculated from the first (1st) day following receipt of payment of the original invoice until the date of repayment. Any repayment by the CATS Parties to the Shipper Group Operator under this Article 10.7 shall be made via the CATS Operator within fifteen (15) days following the resolution of the dispute.

#### **10.8 Default**

- (a) Should any Party fail to make any payments due under this Agreement, then, without prejudice to any other remedies which may be available to the Parties, interest shall be due on such amount calculated on a day by day basis at a rate equal to the LIBOR plus two per cent (2%) per annum from the day upon which payment was due up and including the Day upon which payment is made.
- (b) Any Party may at any time remedy its default by paying to the other Parties all amounts properly invoiced and due including the total interest due pursuant to Article 10.8(a) herein.
- (c) If failure by the Shipper to pay any sum continues for ten (10) or more days after the date on which such payment was properly due then, following the expiration of such ten (10) day period, the CATS Operator may, at any time and from time to time while such failure

continues, give not less than ten (10) days' notice to the Shipper of the CATS Parties' intention (unless the sum in question is paid prior to the expiration of such ten (10) days' notice) to cease in whole or in part (and if in part, such part to be specified in such notice):

- (i) to accept at the Delivery Point delivery of Shipper Gas; and/or
- (ii) to redeliver Redelivery Gas at the Redelivery Point; and/or
- (iii) to deliver Shipper Product at the Product Redelivery Point

until a date to be specified in said notice (or, if earlier, the date on which the sum in question is paid), and if such sum is not paid prior to the expiration of such notice, then the CATS Operator may exercise such remedies specified in this Article 10.8(c); provided that if such failure to pay any sum continues for fifty (50) or more days after the date on which such payment was properly due, then following the expiration of such fifty (50) day period, the CATS Operator may, at any time while such failure continues, give not less than twenty (20) days' notice to the Shipper of the CATS Parties' intention (unless the sum in question is paid prior to the expiration of such twenty (20) days' notice) to terminate this Agreement, and if such sum is not paid prior to the expiration of such notice, then the CATS Parties may terminate this Agreement, effective immediately, by giving notice thereof to the Shipper.

- (d) The exercise or non-exercise of the rights contained in this Article 10.8 shall not constitute a waiver of or in any way prejudice any other rights or remedies available to a Party.

## **10.9 Right to Examine Shipper's Books and Records**

Subject to Article 10.11, the CATS Operator (on behalf of the CATS Parties) shall have the right at reasonable hours upon giving the Shipper reasonable notice and at the CATS Parties' expense to examine the books, records and



charts of the Shipper or the Shipper Group Operator relative to this Agreement.

**10.10 Right to Examine CATS Parties' Books and Records**

Subject to Article 10.11, the Shipper shall have the right at reasonable hours upon giving the CATS Operator reasonable notice and at the Shipper's expense to examine the books, records and charts of the CATS Operator relative to this Agreement.

**10.11 Conduct of Examinations**

Any examination of books, records and charts pursuant to Articles 10.9 or 10.10 shall be made to the extent necessary to verify the accuracy of any accounting statement, charge, computation or claim made pursuant to any of the provisions of this Agreement; provided that:

- (a) such books, records and charts need not (unless the same contain information relating to a bona fide dispute) be preserved longer than a period of six (6) years after the end of the Contract Year to which such books, records or charts refer;
- (b) if any such examination reveals any inaccuracy in any billing theretofore made, the necessary adjustments in such billing and payment shall be made within fourteen (14) days after the date that such inaccuracy is established by agreement; and
- (c) such right to examine must be exercised within six (6) years after the end of the Contract Year to which the books, records or charts being examined refer.

## **ARTICLE 11 – ALLOCATION AND MEASUREMENT**

- (a) The CATS Allocation Agreements shall apply to all CATS Users of the relevant part of the CATS System with respect to the allocation of CATS Gas, CATS Product, Redelivery Gas and Shipper Product.
- (b) The CATS Measurement Manual shall govern all matters relating to the measurement of Shipper Gas, Redelivery Gas and Shipper Product.

## **ARTICLE 12 - COST SHARING BASIS**

### **12.1 Operating Cost Sharing**

- (a) In the circumstances in which the CATS Parties elect to issue a notice pursuant to Article 5.2 of Section I advising the Shipper that the CATS Parties elect to charge the Fee in lieu of the Tariff Payment, any such notice shall contain the CATS Parties' bona fide estimate of the Operating Costs for the Contract Year in which such a Fee would become payable and an estimate for the subsequent five (5) Contract Years thereafter. The Fee shall be an allocated proportion of the Operating Costs multiplied by one point one zero (1.10). Such allocated proportion shall be that proportion which the greater of the aggregate of the Shipper's DRCRs or the throughput of Shipper Gas for the Contract Year in question bears to the aggregate in respect of all CATS Users of the greater of their Maximum Daily Rate of Delivery or throughput for such Contract Year of CATS Gas. For the avoidance of doubt the Operating Costs shall if necessary, and at the discretion of the CATS Parties, be split between different parts of the CATS System and allocated based on the higher of throughput or Maximum Daily Rates of Delivery of CATS Users through each part.
- (b) The CATS Parties shall notify the Shipper:

- (i) by 30<sup>th</sup> June prior to the start of any Contract Year for which a Fee shall be payable, of its estimate of the Fee for that next coming Contract Year and for the five (5) Contract Years thereafter;
  
- (ii) by 31<sup>st</sup> August prior to the start of any Contract Year for which a Fee shall be payable of its best estimate of the Fee for that next coming Contract Year and for the five (5) Contract Years thereafter based on the proportion of Operating Costs which the greater of:
  - (aa) the Shipper's DRCR; and
  
  - (bb) the throughput of Shipper Gas through the CATS Facilitiesduring the first nine (9) Months of the Contract Year in which such estimate is given bears to the aggregate in respect of all CATS Users of the greater, for each CATS User, of:
  - (cc) its Maximum Daily Rate of Delivery; and
  
  - (dd) its throughput through the CATS Facilitiesduring the first nine (9) months of the current Contract Year;
  
- (iii) within sixty (60) Days from the end of any Contract Year for which a Fee was payable, of the Operating Costs and the actual Fee in respect of that Contract Year. Such Fee shall be reconciled with the estimate notified pursuant to Article 12.1(b)(ii) and paid in accordance with Article 10.

- (c) The Shipper may elect to terminate this Agreement within:

- (i) one hundred and twenty (120) days of receipt of any notice served in accordance with Article 5.2 of Section I;
- (ii) thirty (30) days of receipt of any notice served in accordance with Article 12.1(b)(i); or
- (iii) fifteen (15) days receipt of any notice served in accordance with Article 12.1(b)(ii)

in each case with effect from the last Day of the Contract Year prior to the start of the Contract Year to which the Fee in question relates, provided that the Shipper may only elect to terminate under Article 12.1(c) (iii) if the estimate of the Operating Costs given in the relevant notice for the next coming Contract Year is more than one hundred and twenty (120%) of the estimate of the Operating Costs for such Contract Year notified in the notice provided under Article 12.1(b)(i).

## **ARTICLE 13 - NECESSARY INVESTMENT**

### **13.1 CATS Parties' Election to make a Necessary Investment**

If the CATS Parties consider at any time:

- (a) that they are unable to fulfil their obligations under this Agreement and in order to resume performance thereof they shall have to make an investment to rebuild, repair, reconfigure, rectify or reinstate the whole or any part of the CATS Facilities and that it would be uneconomic to the CATS Parties to perform such work; and/or
- (b) that they shall have to make an investment of a major and/or non-routine nature in the CATS Facilities on or after the Cost Share Date in order to be able to continue to provide the Service or any part thereof;

either of such investments being referred to as a “Necessary Investment” they may so notify the Shipper in writing as soon as reasonably practicable and request such relevant information as the CATS Parties may reasonably require to enable them to prepare an Investment Notice, including the Shipper’s bona fide update of the EDRCRs for each Contract Year for the remainder of the Shipper Field life. Within sixty (60) days of the receipt of such notification the Shipper shall provide the information requested.

### **13.2 Necessary Investment Notice**

If the CATS Parties decide to make a Necessary Investment they may require the Shipper to pay a share thereof calculated in accordance with Article 13.3(a) (the “Shipper Share”). In such event the following procedure shall be followed:

- (a) The CATS Parties shall, as soon as reasonably practicable after receipt from the Shipper and other relevant CATS Users of the information requested in the notice under Article 13.1 (or the equivalent in other relevant agreements), serve a further notice (an “Investment Notice”) on the Shipper which shall specify:
  - (i) that part (the “Relevant Part”) of the CATS Facilities in respect of which the Necessary Investment is required with a work programme, budget and funds forecast for the work;
  - (ii) an estimate of the Shipper Share pursuant to information provided by the Shipper pursuant to Article 13.1 and on the basis that all CATS Users using the Relevant Part at the time of service of the Investment Notice will continue to use the Relevant Part after the Reinstatement Date;

- (iii) the date (the “Relevant Date”), upon which the first cash call for the Necessary Investment will be made;
  - (iv) the CATS Parties assessment of the useful life of the Relevant Part (“the Relevant Period”); and
  - (v) a bona fide estimate, if known, of the proposed date of Decommissioning of the CATS Facilities. Any changes to such estimate prior to commencement of the process set out in Article 13.2(c) and 13.2(e) shall be notified to the Shipper.
- (b) Within sixty (60) days of receipt of the Investment Notice the Shipper shall elect by notice either:
- (i) to terminate this Agreement with effect from the Relevant Date;  
or
  - (ii) to contribute its Shipper Share,

provided that if the Shipper does not make an election in accordance with the foregoing, it shall be deemed to have made the election to terminate this Agreement in accordance with Article 13.2(b)(i).

- (c) If the Shipper elects to contribute its Shipper Share pursuant to Article 13.2 (b) (ii), and if any one or more CATS User on whom an Investment Notice has been served elects not to contribute its share of the Necessary Investment the CATS Parties shall, as soon as reasonably practicable serve a revised Investment Notice on the Shipper specifying their revised estimate of the Shipper Share as a result of the election by such one or more CATS Users.
- (d) Within fifteen (15) days of receipt of the revised Investment Notice referred to in Article 13.2(c) the Shipper may elect by notice:

- (i) to terminate this Agreement with effect from the Relevant Date;  
or
  - (ii) to contribute its Shipper Share;
- (e) In the event that any CATS User on whom a revised Investment Notice has been served elects not to contribute its share of the Necessary Investment in accordance with Article 13.2(d) then the process outlined in Articles 13.2(c) and (d) and this Article 13.2(e) shall be repeated until all CATS Users on whom a revised Investment Notice has been served have elected to contribute their shares of the Necessary Investment.

### **13.3 Calculation of Shipper Share**

- (a) If the Shipper elects to contribute its Shipper Share pursuant to Article 13.2 (b)(ii), the Shipper Share shall be the Necessary Investment multiplied by the Shipper Share Percentage.
- (b) In respect of costs to be incurred by the CATS Parties for the Necessary Investment, the CATS Operator shall estimate cash disbursements for each month and accordingly cash call the Shipper for the Shipper Share Percentage of such amount not less than twelve (12) days prior to the beginning of the month in question. Such cash call shall be paid by the Shipper to the CATS Parties by the fifteenth (15<sup>th</sup>) calendar day of the month to which the cash call relates or the first (1<sup>st</sup>) Working Day thereafter.
- (c) Where funds in excess of any cash calls referred to in Article 13.3(b) are required by the CATS Parties, a further cash call may be made by the CATS Operator. Such cash call shall be paid promptly by the Shipper to the CATS Parties.
- (d) If the cash calls paid in respect of any month are in excess of or less than the Shipper Share Percentage of the actual costs incurred by the

CATS Parties during such month then the CATS Operator shall adjust the subsequent cash call by the full amount of such excess or deficit, as the case may be.

- (e) Within fifteen (15) days from the end of each month until all expenditures in relation to the Necessary Investment have been accounted for, the CATS Operator shall determine the total expenditure in respect of such month and supply a statement to the Shipper reflecting such expenditures and the Shipper Share Percentage thereof.

#### **13.4 Shipper's obligation to pay Shipper Share**

If the Shipper makes an election to contribute its Shipper Share pursuant to Article 13.2(b)(ii), then any subsequent termination of this Agreement occurring pursuant to the terms hereof shall not extinguish the responsibility of the Shipper to contribute their Shipper Share and pay all amounts due in accordance with Article 13.3 until all such Shipper Share has been paid in accordance herewith.

#### **13.5 Fee payable in Lieu of Tariff**

If the Shipper elects to contribute its Shipper Share following the procedure set out in Article 13.2, the Shipper shall, in circumstances where the Tariff would otherwise continue to be payable under this Agreement following completion of the Necessary Investment and payment of the Shipper Share, no longer pay the Tariff for the Service from the date of such completion and payment. Therefrom, the CATS Parties shall charge the Shipper a fee in lieu of the Tariff Payment which such fee shall, for the avoidance of doubt but notwithstanding the provisions of Article 5.2 of Section 1, be the Fee and in respect thereof the provisions of Article 12.1(a) shall be deemed to apply, mutatis mutandis, to the calculation of the Fee.



### 13.6 Adjustment to Shipper Share

As soon as reasonably practicable following the end of each Contract Year of the Relevant Period, adjustments shall be made to the Shipper Share. Such adjustments shall be calculated as follows:

- (a) The total cost of the Necessary Investment shall be divided by the aggregate of each Relevant User’s Relevant Capacity and, thereafter, multiplied by the aggregate of each Relevant User’s Annual Relevant Capacity for the Contract Year in question. The result shall hereinafter be called “Depreciation”.
- (b) The Shipper Share shall be divided by the Shipper’s Relevant Capacity and multiplied by the Shipper’s Annual Relevant Capacity for the Contract Year in question (“the Shipper Payment”).
- (c) The Depreciation for the Contract Year in question shall be multiplied by X and divided by Y where:

X = the greater of the Shipper’s Annual Relevant Capacity for such Contract Year and the Shipper throughput through the Relevant Part for such Contract Year; and

Y = the aggregate of:

- (i) the aggregate in respect of all Relevant Users, of the higher of their respective Annual Relevant Capacity or their respective throughput in respect of such Contract Year; and
- (ii) in respect of all CATS Users, other than the Relevant Users, who use the Relevant Part in such Contract Year, the aggregate in respect of all such CATS Users of the higher of their

respective reserved capacity in the Relevant Part or their respective throughput in the Relevant Part in respect of such Contract Year.

The result of this calculation shall be the “Shipper Adjusted Payment”.

- (d) To the extent that the Shipper Adjusted Payment exceeds the Shipper Payment, the Shipper shall make a payment promptly to the CATS Parties for the amount of the excess;
- (e) To the extent that the Shipper Payment exceeds the Shipper Adjusted Payment, the CATS Parties shall make a payment promptly to the Shipper for the amount of the overpayment, provided that if the CATS Parties have not received sufficient funds from all CATS Users in respect of CATS User Adjusted Payments that exceed CATS User Payments to meet their obligations to make payments to all CATS Users in respect of CATS User Payments that exceed CATS User Adjusted Payments, then the amount payable by the CATS Parties in accordance with this Article 13.6(e) shall be reduced pro-rata to the amount actually received.

### **13.7 Mandatory Contribution of a CATS User after the Reinstatement Date**

The CATS Parties warrant that they will not transport and/or process through the Relevant Part after the Reinstatement Date the Natural Gas of any CATS User, which was being so transported and/or processed before the Relevant Date in the case of a Necessary Investment, unless a contribution (calculated in accordance with Article 13.3) to the Necessary Investment is made by or on behalf of such CATS User.

## **ARTICLE 14 - INSURANCE AND RISK**

### **14.1 Property and Risk in Shipper Gas, Redelivery Gas and Shipper Product**

Notwithstanding the provisions of Article 15, property and risk in Shipper Gas, Redelivery Gas and Shipper Product while in the CATS Facilities shall at all times remain with the Shipper.

### **14.2 Warranties by Shipper and CATS Parties**

- (a) The Shipper hereby warrants title to Shipper Gas delivered hereunder and that such Shipper Gas shall be free from all liens, charges, encumbrances and adverse claims of any and every kind.
- (b) The CATS Parties hereby warrant that the Redelivery Gas redelivered at the Redelivery Point and the Shipper Product redelivered at the Product Redelivery Point shall be free from all liens, charges, encumbrances or adverse claims of any and every kind, other than any such liens, charges, encumbrances or adverse claims which breach the warranty given under Article 14.2(a).

### **14.3 Shipper's Insurance**

The Shipper shall be responsible for and shall bear the cost of arranging any insurance in respect of Shipper Gas, Redelivery Gas and Shipper Product derived therefrom while in the CATS System and shall arrange for any such insurances to include a waiver of subrogation rights against the CATS Parties, such waiver to be limited strictly to the extent of the CATS Parties' interests in this Agreement.

### **14.4 CATS Parties Insurance**

Any insurances in respect of the CATS System, including third party risks, shall be the responsibility of the CATS Parties and the CATS Parties shall

arrange for all such insurances to include a waiver of subrogation rights against the Shipper, such waiver to be limited strictly to the extent of the Shipper's interests in this Agreement.

#### **14.5 Insurance of Shipper Field Facilities**

Any insurances in respect of the Shipper Field Facilities, including third party risks, shall be the responsibility of the Shipper and the Shipper shall procure that all such insurances include a waiver of subrogation rights against each of the CATS Parties, such waiver to be limited strictly to the extent of the CATS Parties' interests in this Agreement.

### **ARTICLE 15 - LIABILITIES AND INDEMNITIES**

#### **15.1 Exceptions**

All rights, liabilities and obligations (including without limitation indemnity obligations) under this Agreement other than:

- (a) the obligation to make payment pursuant to Article 5 of Section I and Article 9 of Section II;
- (b) any costs associated with acceptance of Non-Specification Shipper Gas pursuant to Articles 6.2 and 6.3;
- (c) the obligation to pay any amounts due under Article 7.3 and Article 7.4;
- (d) the obligation to pay any amounts due under Article 10;
- (e) the correction of any inaccuracy made in accordance with Article 10.11(b);
- (f) the obligation to pay a share of any Necessary Investment;
- (g) the allocation of risk pursuant to Article 14.1;
- (h) the warranties given in Article 14.2;
- (i) any costs associated with or obligations assumed in connection with the sale or lease of the CATS Facilities pursuant to Article 16;

- (j) the indemnity provisions of Article 16.3(c) proviso(ii); and
- (k) the duties of confidentiality imposed pursuant to Article 21

shall be subject to this Article 15 and, save as aforesaid, in the event of any conflict between this Article and any other provision of this Agreement, this Article 15 shall prevail.

#### **15.2 Shipper's Consequential Losses**

The Shipper shall bear and shall defend, indemnify and hold the CATS Parties and the CATS Operator harmless in respect of the Consequential Loss of the Shipper arising out of or in connection with this Agreement, irrespective of the Wilful Misconduct, negligence or breach of duty (statutory or otherwise) of any one or more of the CATS Capacity Parties.

#### **15.3 CATS Parties' Consequential Losses**

The CATS Parties shall bear and shall defend, indemnify and hold the Shipper and the Shipper Group Operator harmless from and against any and all Consequential Loss of the CATS Parties or the CATS Operator arising out of or in connection with this Agreement, irrespective of the Wilful Misconduct, negligence or breach of duty (statutory or otherwise) of any one or more of the Shipper Field Capacity Parties.

#### **15.4 Shipper Direct Losses**

Subject to 15.2, the Shipper shall bear, and shall defend, indemnify and hold the CATS Parties and the CATS Operator harmless from and against, any and all Shipper Direct Losses arising out of or in connection with this Agreement, irrespective of the negligence or breach of duty (statutory or otherwise) of any one or more of the CATS Capacity Parties but not in the event of the Wilful Misconduct of any of the CATS Parties or the CATS Operator.

### **15.5 CATS Direct Losses**

Subject to 15.3, the CATS Parties shall bear, and shall defend, indemnify and hold the Shipper and the Shipper Group Operator harmless from and against, any and all CATS Direct Losses arising out of or in connection with this Agreement, irrespective of the negligence or breach of duty (statutory or otherwise) of any one or more of the Shipper Field Capacity Parties but not in the event of the Wilful Misconduct of the Shipper or the Shipper Group Operator.

### **15.6 Extension of Relief**

Any relief from liability, indemnity or benefit in favour of the CATS Parties, the CATS Operator, the Shipper, the Shipper Group Operator or any of them under this Agreement shall extend to (a) the respective Affiliates of the companies or corporations concerned; (b) their contractors and sub-contractors; and (c) to their respective directors, officers and employees. “Contractors” and “sub-contractors” shall not include the owners or operator of any Host Facilities.

### **15.7 No Prejudice to Express Obligations**

None of the provisions of this Article 15 shall affect any obligations to make payments properly due in accordance with the express terms of this Agreement.

### **15.8 Performance by CATS Operator**

Where the CATS Operator is in breach of an obligation pursuant to this Agreement, the CATS Parties shall be liable for such breach to the extent provided in this Article 15 as though such breach had been committed by the CATS Parties instead of the CATS Operator.

### **15.9 Performance by Shipper Group Operator**

Where the Shipper Group Operator is in breach of an obligation pursuant to this Agreement the Shipper shall be liable for such breach to the extent provided in this Article 15 as though such breach had been committed by the Shipper instead of the Shipper Group Operator.

### **15.10 Conduct of Proceedings**

A Party or Parties (or other Person referred to in Article 15.6) seeking an indemnity under this Agreement (“the Indemnitee”) shall notify the Party or Parties from whom it is seeking such indemnity (“the Indemnitor”) of any claims made or proceedings commenced for which the Indemnitee seeks indemnification, shall confer with the Indemnitor concerning the defence of any such claims or proceedings, shall permit the Indemnitor to resist the claim (at the Indemnitor's expense) and shall not effect settlement of or compromise any such claims or proceedings without the Indemnitor's prior written consent. In all other respects the Indemnitee shall use reasonable endeavours to ensure that the handling and defence of any claim or proceedings in respect of which it relies, or intends to rely upon the undertakings to indemnify as granted by the Indemnitor, is carried out in all material respects in accordance with the reasonable written instructions of the operator of the Indemnitor, save that the Indemnitee shall have a right to appoint its own legal representation in the conduct of any claim or proceedings in respect of which that party is seeking the benefit of an indemnity provided for under this Agreement.

## **ARTICLE 16 – DECOMMISSIONING**

### **16.1 Notice of Decommissioning**

The CATS Parties may on service of at least two (2) years' prior notice Decommission all or any part of the CATS Facilities. Any notice served pursuant to this Article 16.1 shall include the date on which it is intended

Decommissioning shall commence Provided that the CATS Parties shall not be entitled to commence the Decommissioning of all or part of the CATS Facilities prior to the Earliest Decommissioning Date. Such notice shall contain an election:

- (a) to sell the CATS Facilities or the relevant part thereof for a nominal consideration to the Relevant Parties and making the election referred to in Article 16.3; or
- (b) to lease the CATS Facilities or the relevant part thereof to the Relevant Parties on terms to be agreed between the CATS Parties and the Relevant Parties; or
- (c) to continue to operate the CATS Facilities or the relevant part thereof charging a pro rata share (based on the Shipper's throughput relative to the total throughput of the CATS Facilities or such relevant part thereof) of the capital and Operating Costs of the CATS Facilities or such relevant part thereof, multiplied by one point one zero (1.10). If the CATS Parties make an election pursuant to this Article 16.1(c), then within thirty (30) days of such election, the CATS Parties shall notify the Shipper of their estimate of the proposed charge.

Subject to the agreement of other Relevant Parties, in the event the option in Article 16.1(b) is elected and the terms of the lease of the CATS Facilities have not been agreed within twelve (12) Months of the service of the notice of Decommissioning then the CATS Parties may within thirty (30) Days thereafter either withdraw the notice of Decommissioning or in the event that the period of the original notice shall expire, revise and amend such notice to provide for an election under Article 16.1(a).

## **16.2 Shipper's Options**

The Shipper may elect either:



- (a) to continue to use the CATS Facilities or the relevant part thereof on the terms of the option selected by the CATS Parties as described in Article 16.1 (a), (b) or (c) above; or
- (b) to discontinue use of the CATS Facilities or the relevant part thereof. In such event, this Agreement shall terminate upon the date specified in the CATS Parties' notice pursuant to Article 16.1 as the date on which it is intended Decommissioning will commence.

### **16.3 Content of CATS Parties' Election**

In any election pursuant to Article 16.1 (a), the CATS Parties shall elect to pay to or on behalf of the Relevant Parties:

- (a) at the time that the CATS Facilities or the relevant part thereof are Decommissioned by the Relevant Parties, an amount equal to the Deemed Decommissioning Costs plus interest calculated at LIBOR which shall apply from the date specified in the CATS Parties' notice pursuant to Article 16.1 until the date of payment; or
- (b) at the time that the CATS Facilities or the relevant part thereof are Decommissioned by the Relevant Parties, the Corrected Decommissioning Costs; or
- (c) on the date set out in the CATS Parties' notice given pursuant to Article 16.1, an amount equal to the Deemed Decommissioning Costs;

provided that if:

- (i) either amount referred to in Article 16.3 (a) or (b) is to be paid by the CATS Parties, then the CATS Parties shall, on the date set out in the CATS Parties' notice pursuant to Article 16.1, provide the Relevant Parties with security for the payment of

such amount in a manner agreed between the CATS Parties and the Relevant Parties;

- (ii) any payment of the amounts referred to in Articles 16.3(a), (b) or (c) has been made to or on behalf of the Relevant Parties, the Shipper shall be liable for, and shall defend, indemnify and hold the CATS Parties harmless from and against, a proportion of any and all Loss in respect of the amount (if any) by which the Actual Decommissioning Costs exceed such payment, except to the extent caused by the failure of any one or more of the CATS Parties or the CATS Operator to act in accordance with the standard of a Reasonable and Prudent Operator; and
- (iii) the amount referred to in Article 16.3 (c) is to be paid by the CATS Parties, then the Shipper shall, on the date set out in the CATS Parties' notice pursuant to Article 16.1, provide the CATS Parties with security for the Decommissioning of the CATS Facilities or the relevant part thereof in a manner agreed between the CATS Parties and the Relevant Parties.

#### **16.4 Event of Delay**

- (a) In the event that the sale or commencement of lease of the CATS Facilities or the relevant part thereof pursuant to Article 16.1(a) or (b) is delayed beyond the expiry of the notice referred to in Article 16.1 due to reasons outside the control of the CATS Parties, the Service shall continue on the basis referred to in Article 16.1(c) or on the terms in effect prior to the expiry of the notice referred to in Article 16.1 (whichever shall be elected by the CATS Parties) until the earlier of (i) the effective date of the sale or (ii) the first day of the month falling six (6) months after the date on which the CATS Parties intended that Decommissioning commence, as such intended date of Decommissioning was notified under Article 16.1.
- (b) If the effective date of sale or date of commencement of lease, as the

case may be has not occurred by the first day of the month falling six (6) months after the date on which the CATS Parties intended that Decommissioning commence, as such intended date of Decommissioning was notified under Article 16.1, the CATS Parties may at any time thereafter proceed with Decommissioning of the CATS Facilities and this Agreement shall terminate on the date that the CATS Parties determine to proceed with decommissioning.

### **16.5 Further Notice of Decommissioning**

The CATS Parties may:

- (a) at any time during the period when an election pursuant to Article 16.1 (c) is in force, give a further notice of Decommissioning of the CATS Facilities or the relevant part thereof pursuant to Article 16.1; and/or
- (b) give a series of notices pursuant to Article 16.1 for the Decommissioning of any part of the CATS Facilities, until notices have been served in respect of the whole of the CATS Facilities

and in either case the provisions of this Article 16.1 shall apply in respect of any such notice(s).

### **16.6 Shipper's right to Terminate**

If the CATS Parties give notice pursuant to Article 16.1, the Shipper may, upon thirty (30) Days' notice to the CATS Parties given at any time thereafter, terminate this Agreement, provided that such notice shall not be effective prior to the Earliest Decommissioning Date and provided further that the Shipper shall pay to the CATS Parties all amounts due to be paid by the Shipper under this Agreement up to the expiry of the Shipper's notice including (for the avoidance of doubt) that proportion of capital expenditures (if any) which would have been borne by the Shipper had such notice not been given but which have not been paid to the CATS Parties pursuant to Article 13 or in accordance with an election pursuant to Article 16.1(c) (as the case may be) prior to the expiry

of the Shipper's notice.

#### **16.7 Decommissioning of CATS System or any part thereof**

For the avoidance of doubt, the CATS Parties shall be entitled at their sole discretion to Decommission any part of the CATS System which is not part of the CATS Facilities at any time.

### **ARTICLE 17 - FORCE MAJEURE**

#### **17.1 Force Majeure**

“Force Majeure” shall mean any event occurring beyond the control of the Party claiming Force Majeure (hereinafter the “Affected Party”), which event could not have been prevented by such Party acting and having acted as a Reasonable and Prudent Operator but shall specifically exclude the consequences of failure of any contractor or sub-contractor of any Party seeking relief under this Article 17.1 to act as a Reasonable and Prudent Operator and in respect of relief for Force Majeure sought by the Shipper shall specifically exclude commercial risk from gas or other energy markets, including failure to secure a buyer for Shipper Gas or the default of such buyer or the failure to perform, or underperformance, of any reservoir from which Shipper Gas is supplied provided that Force Majeure claimed by the Shippers as a result of an event affecting the Host Facilities shall only constitute Force Majeure in respect of the Shippers if such event constitutes an event occurring beyond the control of the Host Operator, which event could not have been prevented by the Host Operator acting and having acted as a Reasonable and Prudent Operator.

#### **17.2 Effect of Force Majeure**

Without prejudice to Article 15, if the Affected Party because of Force Majeure is rendered wholly or partially unable at any time to perform its obligations under this Agreement for a period of at least 24 hours, the Affected

Party shall be excused from whatever performance is affected by Force Majeure to the extent and for the period so affected; provided that:

- (a) the Affected Party shall give notice (a “Force Majeure Estimate”) to the other Parties (the “Non-Affected Party”) at each of the following times:
  - (i) as soon as practicable, but in any event within seven (7) Working Days after the Day on which the Affected Party became aware or should have become aware that an event of Force Majeure had occurred;
  - (ii) as soon as reasonably practicable when the Affected Party anticipates that it will be able to resume performance of its obligations under this Agreement.

The Force Majeure Estimate given under paragraph (i) above shall contain the following information relating to the event of Force Majeure:

- (A) particulars of the occurrence;
  - (B) the Affected Party's bona fide estimate of:
    - (a) its expected duration of Force Majeure;
    - (b) the date that full performance will be resumed; and
    - (c) the expected extent of the Affected Party's inability to perform; and
  - (C) to the extent known or then ascertainable the reasons for the occurrence;
- (b) the Affected Party shall, to the extent required by and in accordance with Article 4.7, give or procure access for representatives of the

Non-Affected Party to examine the scene of the event which gave rise to the claim of Force Majeure;

- (c) the Affected Party shall promptly take all such steps as would a Reasonable and Prudent Operator to remedy its inability to perform; provided, however, that the settlement of strikes, lockouts or other labour or industrial disturbances shall be entirely within the discretion of the Affected Party;
- (d) The provisions of this Article shall not be applicable to any obligation to pay money due, except in a case where Force Majeure affects the means specified for making such payment, or the currency in which or the place at which such payment is to be made, in which case, the Parties shall agree alternative means, currency or place of payment.

### **17.3 Termination for Force Majeure**

- (a) In the event that for reasons of Force Majeure, the CATS Parties have been unable to make available within the CATS Facilities any capacity which the Shipper has reserved pursuant to Article 3 of Section I hereof for a continuous period of one hundred and eighty (180) Days and the CATS Parties reasonably estimate that no capacity will be available for at least a further period of one hundred and eighty (180) days, then the Shipper shall have the right, upon giving the CATS Parties not less than ninety (90) days prior notice in writing, to terminate this Agreement.
- (b) In the event that for reasons of Force Majeure, the Shipper has been unable to tender Shipper Gas for delivery at the Delivery Point for a continuous period of one hundred and eighty (180) Days and the Shipper reasonably estimates that no Shipper Gas will be tendered for delivery at the Delivery Point for at least a further period of one hundred and eighty (180) days, then the CATS Parties shall have the right, upon giving the Shipper not less than ninety (90) days prior notice in writing, to terminate this Agreement.

## **ARTICLE 18 - OPERATORS WARRANTIES**

### **18.1 Authority of CATS Operator**

The CATS Parties hereby authorise the CATS Operator to exercise certain rights and meet certain obligations under this Agreement (as more precisely set out elsewhere herein) as operator for and on behalf of the CATS Parties.

### **18.2 Authority of Shipper Group Operator**

The Shipper hereby authorises the Shipper Group Operator to exercise certain rights and meet certain obligations under this Agreement (as more precisely set out elsewhere herein) as operator for and on behalf of the Shipper.

## **ARTICLE 19 - THE EXPERT**

### **19.1 Appointment of Expert**

Unless modified by any other express provision of this Agreement the provisions of this Article 19 shall apply to any dispute or point of difference which is, in accordance with the terms of this Agreement, to be referred to an Expert or which the Parties otherwise agree should be so referred. The Person to whom such dispute or difference is to be referred is herein referred to as the “Expert”.

### **19.2 Procedure for Appointment of an Expert**

The procedure for the appointment of an Expert shall be as follows:

- (a) the Party wishing the appointment to be made shall give notice to that effect to the other Parties and with such notice shall give details of the matter which it is proposed shall be resolved by the Expert;
- (b) the Parties shall meet in an endeavour to agree upon a single Expert to whom the matter in dispute shall be referred for determination;
- (c) if within twenty-one (21) days from the service of the said notice the Parties have either failed to meet or failed to agree upon an Expert then the matter may forthwith be referred by either Party to the President of the Law Society of England and Wales who shall be requested to select an Expert within twenty-one (21) days and in so doing may take such independent advice as he thinks fit;
- (d) Upon an Expert being agreed or selected under the foregoing provisions of this Article 19 the Parties shall forthwith notify such Expert of his selection and shall request him within fourteen (14) days to confirm whether or not he is willing and able to (and does in fact) accept the appointment;
- (e) If such Expert shall be either unwilling or unable to accept such appointment or shall not have confirmed his acceptance of such appointment within the said period of fourteen (14) days then (unless the Parties are able to agree upon the appointment of another Expert) the matter shall again be referred (by either Party) in manner aforesaid to the said President who shall be requested to make a further selection and the process shall be repeated until an Expert is found who accepts the appointment;
- (f) The contract of appointment of the Expert shall be entered into jointly by the Parties and the Parties will co-operate in the negotiation and agreement of the terms and in the administration of the contract of the Expert. Provided that if there shall be any dispute between the Parties on the amount of remuneration to be offered to the selected Expert then



such amount shall be determined by the said President whose decision shall be final and binding on the Parties.

### **19.3 Qualifications of Expert**

- (a) An Expert may be an individual partnership association or body corporate and shall be generally recognised as an expert in a field of expertise relevant to the dispute;
- (b) Subject to Article 19.3(c), any Person appointed as the Expert shall be entitled to act as such Expert notwithstanding that at the time of the appointment or at any time before he gives his determination under such appointment he has or may have some interest or duty which conflicts or may conflict with his function under such appointment. Provided that the Parties shall require the said Expert to disclose any such interest or duty of which the said Expert is aware before accepting such appointment (or promptly upon any such interest or duty arising subsequent to such appointment) and the Parties shall within ten (10) days after such disclosure confirm his appointment. Provided further that if any Party fails to give such confirmation because it considers that there is a material risk of such interest or duty prejudicing his decision, then the other Parties may apply to the said President who shall decide if such Expert shall be appointed or not, or if such Expert (having been appointed) should continue to act or not, having considered any submissions the Parties may wish to make and if the said President decides not to confirm the appointment or continuance thereof it shall be deemed never to have been made and the said President shall select another Expert in accordance with the foregoing provisions of this Article 19;
- (c) No Person shall be appointed an Expert who at the time of appointment is (or within the previous five (5) years was) a director, officeholder or an employee of or directly or indirectly retained as consultant to any of the CATS Parties, the Shipper or any other owners of beneficial

interests in the Shipper Field (or any Affiliate thereof) or who is the holder of shares in any of the CATS Parties, the Shipper or any other owners of beneficial interests in the Shipper Field or any Affiliate thereof (unless such CATS Party, Shipper or other owners of beneficial interests in the Shipper Field or Affiliate (as the case may be) is a company quoted on a recognised stock exchange and his shareholding is less than one thousand shares of any class).

#### **19.4 Communications and Submissions**

- (a) Subject to the Expert's right to call for oral explanations submissions or information by a Party pursuant to Article 19.4(b) below all communications or submissions from the Parties to the Expert relating to the matter to be resolved by the Expert shall be made in writing and a copy thereof provided simultaneously to the other Party;
- (b) The Parties may make such written submissions and may supply such written information to the Expert as they think fit and the Expert shall be entitled to request and receive such oral or written explanations submissions or information from the Parties as he may consider desirable to enable him to reach his decision in which event the Parties shall comply promptly with any such request;
- (c) In the event that a Party is requested by the Expert to make or give any oral explanations submissions or information to him such Party shall give to the other Parties not less than fourteen (14) days' prior written notice of the time and place at which such oral explanations submissions or information are to be made or given and shall afford to the other Parties the opportunity to be present;
- (d) The Expert shall be entitled to obtain such independent professional and/or technical advice as he may reasonably require, provided that any person from whom the Expert obtains such independent

professional and/or technical advice shall be subject to the duties of confidentiality imposed pursuant to Article 21;

- (e) The Expert shall give full written reasons for his determination and shall furnish the Parties with a draft of his proposed determination in respect of which the Parties shall be entitled to make representations to the Expert within twenty-one (21) days after receipt thereof whereupon the Expert shall render his final determination in writing to the Parties together with full written reasons for such determination as soon as possible thereafter;
- (f) If within a reasonable period (which shall not without prior written consent of the Parties exceed sixty (60) days) after the acceptance by an Expert of the appointment, such Expert has not rendered a final determination then (at the request of the Parties) a new Expert shall be appointed under the provisions of this Article 19 and upon the acceptance of appointment by such new Expert the appointment of the previous Expert shall cease. Provided that if the previous Expert shall have rendered a final determination prior to the date upon which the new Expert accepts his appointment in writing then such determination shall be binding upon the Parties and the instructions to the new Expert shall be withdrawn;
- (g) The Expert shall be deemed not to be an arbitrator but shall render his final determination as an expert and the provisions of the Arbitration Act 1996 and the law relating to arbitration (other than relating to the rules of natural justice) shall not apply to such Expert or his final determination or the procedure by which he reaches his final determination;
- (h) The final determination of the Expert shall be conclusive and binding upon the Parties save in the event of fraud, manifest error or failure by the Expert to disclose any relevant interest;

- (i) Each Party shall bear the costs and expenses of all lawyers, witnesses and employees retained by it but the cost and expenses of the Expert and any independent advisers to the Expert applicable to any matter arising under this Agreement shall be divided equally between all of the parties to the reference to the Expert.

### **19.5 Co-ordination of Disputes**

If Shipper Gas to be transported and processed under this Agreement is commingled with other Natural Gas the Shipper and the CATS Parties shall cooperate with the owners of such other Natural Gas in order to endeavour to co-ordinate any disputes that may arise from such commingling.

## **ARTICLE 20 - ASSIGNMENT**

### **20.1 Assignment to Affiliates**

Subject to Articles 20.4 and 20.5, a CATS Party may assign a CATS Interest and the Shipper may assign its interest in and under this Agreement to an Affiliate without the consent of the Non-Assigning Party provided that any such assignment shall not be effective or legally binding on the Non-Assigning Party until the assignor has complied with the provisions of Article 20.3.

### **20.2 Assignment to Non-Affiliate**

Subject to Articles 20.4 and 20.5, a CATS Party may assign a CATS Interest and the Shipper may assign its interest in and under this Agreement to any other Person if the conditions of sub-paragraphs (a) and (b) below have been satisfied with respect to such assignment and the consent in writing of the Non-Assigning Party has been obtained (which consent will not be unreasonably withheld or delayed). It shall be a condition to any assignment under this Article 20.2 that:

- (a) the requirements of Article 20.3 (a), (b) and (d) shall have been fully satisfied; and
- (b) the proposed assignee shall have demonstrated to the reasonable satisfaction of the Non-Assigning Party that the proposed assignee has sufficient operating, technical and financial capability to meet its prospective obligations under this Agreement.

### **20.3 Pre-conditions to Assignment**

No assignment of rights and obligations under this Agreement shall be effective unless and until:

- (a) the assignor, assignee and the Non-Assigning Party have entered into an agreement pursuant to which the assignee agrees to observe and perform all the terms and conditions of this Agreement including (without prejudice to the generality of the foregoing) all obligations of the assignor accrued up to the date of the assignment to the extent that the same relate to the assigned interest;
- (b) the assignor has provided the Non-Assigning Party with an executed original or certified copy of the assignment in form and content to the reasonable satisfaction of the Non-Assigning Party (excluding any terms relating to the consideration therefor);
- (c) in the case of an assignment pursuant to Article 20.1, the assignor has agreed to remain fully liable jointly and severally with the assignee under this Agreement; and
- (d) all necessary governmental consents to or approvals of such assignment have been obtained.

### **20.4 Transfer of Associated CATS Interests**

No CATS Party shall assign or transfer any interest in the CATS Facilities or any of them without simultaneously transferring therewith the corresponding CATS Interest. No CATS Party shall assign or transfer a CATS Interest

without simultaneously transferring therewith the corresponding interest in the CATS Facilities.

#### **20.5 Transfer of Associated Shipper Interests**

The Shipper shall not assign or transfer any interest in the Shipper Field, the Shipper Field Facilities or the Associated Agreements without simultaneously transferring therewith its corresponding interest in and under this Agreement. The Shipper shall not assign or transfer its interest in and under this Agreement without simultaneously transferring therewith the corresponding interest in the Shipper Field, the Shipper Field Facilities and the Associated Agreements, CID, the CULA ,any Allocation Agreements or any such other Agreements to be entered into between the Parties, from time to time, for the purposes of the performance of their respective obligations under this Agreement (or procure the entering into of a Deed of Adherence (as therein defined) to any such agreements as necessary).

#### **20.6 Encumbrances**

Nothing contained in this Article 20 shall prevent a Party from mortgaging, pledging or otherwise encumbering all or part of its interest in and under this Agreement for the purpose of security relating to finance provided that:

- (a) such Party shall remain liable for all obligations relating to such interest; and
- (b) the encumbrance shall be in terms which prevent it taking effect as either to impair or detract from the rights of any other Party hereunder.

## **ARTICLE 21 - CONFIDENTIALITY**

### **21.1 Information to be held Confidential**

All information and data acquired or received by any of the CATS Parties from the Shipper or by the Shipper from any of the CATS Parties in relation to this Agreement (hereinafter referred to as “Information”) shall be held confidential by the Party or Parties to whom such Information is disclosed. The Party or Parties to whom such Information is disclosed are hereinafter referred to as the “Receiving Party”. Information shall not be disclosed by the Receiving Party to any Person without the prior written agreement of the Party disclosing such Information, except that a Receiving Party may make available, without such prior agreement, any or all of such Information to:

- (a) its Affiliates which require access to the information for the purpose of performing their duties;
- (b) such of the employees, officers and directors of the Receiving Party or its Affiliates or (in the case of disclosure to a CATS Party) other CATS Parties as need to have access to the Information for the purpose of performing their duties, provided such employees, officers or directors are bound by written obligations to keep confidential all matters pertaining to the business affairs of their employer;
- (c) any governmental authority having a statutory right to require the same or to the extent required by law or to any court or tribunal of competent jurisdiction pursuant to a valid request or order;
- (d) its outside professional consultants;
- (e) any of its outside professional auditors, tax or legal advisors;
- (f) any bona fide intending assignee of its rights and obligations hereunder;

- (g) a bank, financial institution, or bona fide potential investor (including that Person's consultants) in connection with financing or proposed financing (in the nature of either debt or equity) of the operation of that Party or any of its Affiliates;
- (h) any recognised stock exchange or the Securities and Exchange Commission of the United States of America in compliance with their rules and regulations;
- (i) any expert appointed pursuant to an agreement for the purchase, sale or transportation of any CATS Gas, CATS Product Redelivery Gas or Shipper Product;
- (j) any purchaser of any CATS Gas, CATS Product, Redelivery Gas or Shipper Product but only to the extent reasonably necessary to comply with the terms of the agreement for the sale of such CATS Gas, or CATS Product Redelivery Gas or Shipper Product;
- (k) any prospective purchaser of any Redelivery Gas or Shipper Product but only to the extent reasonably necessary to effect a sale to such purchaser;
- (l) any Person which is or may become a contractor to such Party to provide materials, equipment or services in connection with such Party's operations hereunder;
- (m) any Person whose consent or approval is required pursuant to any provision of this Agreement, but only to the extent required to obtain such consent or approval;
- (n) any Person authorised to audit the records of the CATS Operator in connection with the verification of allocation;



- (o) any Person to the extent necessary to comply with the publication requirements of the Infrastructure Code of Practice (2008)(as amended from time to time) adopted by the oil and gas industry in consultation with the Department of Energy and Climate Change;
- (p) the Shipper Group Operator to the extent necessary for the Shipper to exercise its rights and perform its obligations under this Agreement; or
- (q) any in-house contractors or consultants of the Receiving Party or of its Affiliates (being contractors and/or consultants working as a members of staff of the Receiving Party or its Affiliates but not falling within the legal definition of employees) that need to have access to the Information for the purpose of performing their duties.

The Receiving Party shall procure that any Information disclosed to an Affiliate shall be held confidential by such Affiliate on the same terms as set out above but without the benefit of the exceptions stated in Articles 21.1 (a), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n) and (p).

Prior to the disclosure of any Information to any Person referred to in Articles 21.1 (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), (o), (p) or (q), such Person shall undertake in writing to maintain such Information confidential on the same terms as set out above but without the benefit of the exceptions stated in Articles 21.1 (a), (d), (e), (f), (g) and (i) to (q) inclusive.

## **21.2 Exceptions**

The foregoing restrictions on disclosure shall not apply to Information which:

- (a) at the time of its disclosure to the Receiving Party hereunder is in, or subsequently comes into, the public domain otherwise than as a result of any breach of the foregoing restrictions by the Receiving Party or any of its Affiliates; or

- (b) is at any time (whether before or after disclosure hereunder) disclosed to the Receiving Party or any of its Affiliates by any third party, otherwise than in breach of an obligation of confidence.

**21.3 Terms of Agreement to be held Confidential**

The terms and conditions of this Agreement shall be held confidential by the Parties and shall not be disclosed by any Party to any Person without the prior written consent of the other Parties, except that a Party may disclose such terms and conditions, without such prior agreement, in the same circumstances as a Receiving Party may make Information available pursuant to Article 21.1.

**21.4 Duration of Obligations**

The provisions of this Article 21 shall remain in force for a period of five (5) years subsequent to the termination of this Agreement.

**ARTICLE 22 - RELATIONSHIPS OF PARTIES**

**22.1 Obligations of CATS Parties Several**

The obligations of the CATS Parties are not joint but several, according to their respective CATS Interests, and default in performance by any CATS Party shall in no way affect the obligations or liabilities of any other CATS Party.

**22.2 Joint and Several Liability of the Shipper**

The obligations and liabilities of the Shipper under this Agreement are joint and several.

### **22.3 No Partnership**

This Agreement is not intended to create, and shall not be construed to create, a relationship of partnership or trust or an association for profit between or among the Parties.

## **ARTICLE 23 - WAIVER**

None of the provisions of this Agreement shall be considered as waived by a Party unless such waiver is made in writing, and then only by the duly authorised representatives of such Party. No waiver by a Party of any default or defaults by another Party in the performance of any of the provisions of this Agreement shall operate or be construed as a waiver of any other or further default or defaults.

## **ARTICLE 24 - DISCHARGE OF OBLIGATIONS**

A Party hereto shall be entitled to discharge any of its obligations under this Agreement by procuring that such obligations are performed on its behalf by another Person but, as among the Parties, such Party shall, subject to Articles 15 and 17, remain responsible for the due performance of such obligations and for any failure or non-performance of such other Person as if such Party itself had failed to fulfil the relevant obligations.

## **ARTICLE 25 – RIGHTS OF THIRD PARTIES**

### **25.1 Contracts (Rights of Third Parties) Act 1999**

Article 15.6 is intended to be enforceable by the third parties referred to therein. Subject to this, the Parties intend that no provision of this Agreement shall, by virtue of the Contracts (Rights of Third Parties) Act 1999 confer any

benefit on, nor be enforceable by any Person who is not a party to this Agreement.

**25.2 Right to Rescind**

The Parties may rescind and/or vary any of the terms of this Agreement (including in respect of any relief from liability, hold harmless, indemnity or benefit given to any third party by the provisions of Article 15.6) or terminate or novate this Agreement without notice to or the consent of any third party.

**25.3 No Assignment by Third Parties**

No third party shall be entitled to assign any rights it may have pursuant to Article 15.6 and this Article 25.

**25.4 Limitation**

In making a claim under this Agreement the remedies of any third party shall be limited to a claim for damages only.

**SCHEDULE I**  
**REDELIVERY POINT**

The Redelivery Point shall be the point situated at the last flange or weld connection at the tie-in point to the NTS reception facility located at the boundary of the CATS Terminal.

**SCHEDULE II**  
**REDELIVERY SPECIFICATION**

***NTS Redelivery Specification***

*Redelivery Gas shall comply with the following Redelivery Specification:*

1. Commercially free from objectionable odours and from materials or other solid or fluid matter which might cause injury to or interference with the NTS transportation and distribution network;
2. hydrocarbon dew point which at all pressures up to and including 7000 kPa gauge does not exceed  $-2$  deg C;
3. water dew point not greater than  $-10$  deg C at a pressure of 7000 kPa gauge;
4. maximum hydrogen sulphide content to be 3.3 ppmv;
5. maximum total sulphur content to be 15.0 ppmv measured as hydrogen sulphide equivalent;
6. maximum carbon dioxide content to be 2.9 mol %;
7. maximum hydrogen content to be 0.1 mol %;
8. maximum oxygen content to be 10.0 ppmv;
9. Wobbe Index which is not more than 51.41 Megajoules per Cubic Metre and not less than 48.14 Megajoules per Cubic Metre;
10. Gross Calorific Value which is not more than 42.3 Megajoules per Cubic Metre and not less than 36.9 Megajoules per Cubic Metre;
11. delivery pressure up to 7000 kPa gauge;
12. temperature not less than 1 deg C and not more than 38 deg C;
13. maximum Incomplete Combustion Factor (ICF) to be 0.48;
14. maximum Soot Index (SI) to be 0.60.

**NOTE:**

- (i) Incomplete Combustion Factor (ICF) and Soot Index (SI) have meanings as defined in Part 1 of Schedule 3 of the Gas Safety (Management) Regulations 1996.
- (ii) If the CATS Terminal NTS input specification agreed between the CATS Parties and the Owners of the NTS differs from this specification or is subsequently changed, to the extent that the CATS Terminal NTS input specification is or becomes less onerous, this specification shall be deemed to be amended to such NTS input specification.

**SCHEDULE III**  
**PRODUCT REDELIVERY POINT**

- A. The Product Redelivery Point in respect of Propane shall be the last flange or weld connection downstream of the last block valve located on the Propane export line at or within the perimeter fence of the CATS Terminal approximately at National Grid co-ordinates E452203 and N524833.
  
- B. The Product Redelivery Point in respect of Butane shall be the last flange or weld connection downstream of the last block valve located on the Butane export line at or within the perimeter fence of the CATS Terminal approximately at National Grid co-ordinates E452203 and N524833.
  
- C. The Product Redelivery Point in respect of Condensate shall be the last flange or weld connection downstream of the last block valve (identified by reference NT-158) located on the Condensate export line within the perimeter fence of the North Tees storage facility (currently operated by SABIC UK Petrochemicals Limited) approximately at National Grid co-ordinates E453595 and N523615.



**SCHEDULE IV**  
**PRODUCT SPECIFICATION**

**A. PROPANE SPECIFICATION**

The Propane export specification is set out hereunder. The CATS Parties retain the right at their discretion to vary the specifications from time to time provided that at all times the delivered Shipper Product will be of merchantable quality. In all cases the test methods shall be based on the most recently published standards.

SPECIFICATION	TEST METHOD	VALUE
WATER Moisture Content DEWPOINT	ASTM D-2713	Pass Less than $-40^{\circ}\text{C}$ at 1.013 Bara
VAPOUR PRESSURE @ 37.8 deg. C	ASTM D-2598	1434 kPa Gauge (maximum)
COMPOSITION NITROGEN CARBON DIOXIDE ETHANE (C2 hydrocarbons) PROPANE Mixed Butanes Pentanes Total unsaturated hydrocarbons (olefins)	ASTM D-2163	(liquid volume) 0.1 % (maximum) 0.1 % (maximum) 2.0 % (maximum) 95.0 % (minimum) 2.5 % (maximum) 0.1 % (maximum) 1.0 % (maximum)
RESIDUAL MATTER: Maximum R Number Maximum O Number	ASTM D-2158 ASTM D-2158	10 Pass
CORROSION, COPPER STRIP Maximum H <sub>2</sub> S	ASTM D-1838 BS 4250	No. 1 1 ppm (vol.) (maximum)
TOTAL SULPHUR MERCURY	ASTM D-2784	50 ppm (wt) (maximum) 10 ppb (wt) (maximum)
REDELIVERY PRESSURE REDELIVERY TEMPERATURE		a maximum of 19 Barg 33 $^{\circ}$ C maximum

**B. BUTANE SPECIFICATION**

The Butane export specification is set out hereunder. The CATS Parties retain the right at their discretion to vary the specifications from time to time provided that at all times the delivered Shipper Product will be of merchantable quality. In all cases the test methods shall be based on the most recently published standards.

SPECIFICATION	TEST METHOD	VALUE
WATER DEWPOINT		Less than –30 at 1.013 Bara
Free Water Content	ASTM D-1835	none
VAPOUR PRESSURE @ 37.8 deg. C	ASTM D-2598	483 kPa Gauge (maximum)
COMPOSITION	ASTM D-2163	(liquid volume)
NITROGEN		0.1 % (maximum)
CARBON DIOXIDE		0.1 % (maximum)
ETHANE		0.1 % (maximum)
PROPANE		0.5 % (maximum)
MIXED BUTANES		95.0 % (minimum)
Pentane and heavier hydrocarbons		1.5 % (maximum)
Total unsaturated hydrocarbons (olefins)		1.0 % (maximum)
RESIDUAL MATTER:		
Maximum R Number	ASTM D-2158	10
Maximum O Number	ASTM D-2158	Pass
CORROSION, COPPER STRIP		
Maximum	ASTM D-1838	No. 1
H <sub>2</sub> S	BS 4250	1 ppm (vol.) (maximum)
MERCURY		10 ppb (wt) (maximum)
TOTAL SULPHUR	ASTM D-2784	50 ppm (wt) (maximum)
REDELIVERY PRESSURE		a maximum of 10.5 barg
REDELIVERY TEMPERATURE		33°C maximum

**C. CONDENSATE CHARACTERISTICS**

Condensate shall be of average quality and merchantable and comply with the specification set out herein. The CATS Parties retain the right at their discretion to vary the specifications from time to time provided that at all times the delivered Shipper Product will be of merchantable quality. In all cases the test methods shall be based on the most recently published standards.

SPECIFICATION	TEST METHOD	VALUE
WATER		
Free Water Content		None
REID VAPOUR PRESSURE @ 37.8 deg C	ASTM D-323	14.5 psia (maximum)
MERCURY		5 ppb (weight)
REDELIVERY PRESSURE		A maximum of 4.0 barg
REDELIVERY TEMPERATURE		33°C (maximum)