

SOUTH AUSTRALIA

REPORT OF THE AUDITOR-GENERAL

ON

SUMMARY OF PELICAN POINT POWER STATION PROJECT DOCUMENTS UNDER SECTION 41A OF THE PUBLIC FINANCE AND AUDIT ACT 1987

Tabled in the House of Assembly and ordered to be published, 9 November 2000

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Auditor-General's Department

AUDITOR-GENERAL'S REPORT ON SUMMARY OF PELICAN POINT POWER STATION PROJECT DOCUMENTS

9 November 2000

The Hon J C Irwin MLC
President
Legislative Council
Parliament House
ADELAIDE SA 5000

The Hon J K G Oswald MP
Speaker
House of Assembly
Parliament House
ADELAIDE SA 5000

Gentlemen,

Summary of Pelican Point Power Station Project Documents under Section 41A of the *Public Finance and Audit Act 1987*

I herewith present you my report pursuant to subsection 41A(4) of the *Public Finance and Audit Act 1987* with respect to a summary of a number of Pelican Point Power Station project documents.

I have today in accordance with subsection 41A(4) of the *Public Finance and Audit Act 1987* delivered a copy of this report to the Honourable the Treasurer.

Preface

In March 1999, the Treasurer tabled in Parliament an initial "Summary of Project Agreements" relating to the Pelican Point Power Station. At the time, the Treasurer indicated to the Parliament that it was his intention to submit a final summary to the Auditor-General for review and subsequent presentation to Parliament pursuant to section 41A of the *Public Finance and Audit Act 1987*.

In January 2000, the Treasurer provided a final summary of various project documents to the Auditor-General for examination and report pursuant to section 41A.

The summary differed in structure and content from the three previous contract section 41A summaries that were examined and reported upon by the Auditor-General in respect of certain Government "outsourcing" contracts in 1997. Those three summaries were prepared and examined in the context of a standard framework agreed between the Attorney-General and the Auditor-General for summaries of such contracts.

That framework requires a summary to be presented in the form of an analysis of the contract under various headings intended to extract important aspects of the contract terms, with due regard to confidentiality obligations.

The summary presented for audit examination in relation the Pelican Point Power Station project documents has not been prepared in accordance with that framework. However, in general terms, the summary is more extensive, and provides more information as to the content of the project documents

to which reference is made, than would have been the case had the summary been prepared in accordance with the agreed framework.

Specifically, the Treasurer has chosen to present for audit examination a document that includes:

- Summaries of certain project documents in the style of an abbreviated restatement of most of the provisions of the agreements being summarised, but with regard to requirements of confidentiality; and
- Copies of the full text of certain other legal documents. These documents have not been summarised in recognition of their status as public documents.

The summary was prepared by the Electricity Reform & Sales Unit (ERSU) of the Department of Treasury and Finance, and its legal advisers.

In view of the nature of the summary presented, the audit examination process was cognisant of the importance that the summary be accurate in its restatement of the relevant project documents in order to be "adequate" in terms of section 41A. The process of examination required discussions with ERSU and its legal advisers, which resulted in a number of amendments to the document presented in January 2000.

Scope

As required by section 41A of the Public Finance and Audit Act 1987, I have examined the contents of the volume of documents entitled "Pelican Point Power Station Project Documents Summary Presented to Auditor-General Pursuant to Section 41A of the Public Finance and Audit Act 1987" referred to below as "the Summary".

I am required to examine the Summary and report on my opinion as to its adequacy as a summary of the contents of the contracts it summarises, having regard to the requirements as to confidentiality affecting the contents of the contracts.

The audit examination and the assessment of its adequacy of the Summary has been undertaken having regard to:

- The requirements as to confidentiality affecting the contents of the contracts that are summarised; and
- The statement to the Parliament made by the Treasurer in March 1999 in relation to the project documents.

Specifically, the summary addresses:

- An "Implementation Agreement" dated 2 February 1999 between the Treasurer of South Australia on behalf of the State of South Australia, National Power South Australia Investments Limited and National Power PLC;
- A "Pelican Point Gas Supply Agreement" dated 8 March 1999 between Terra Gas Trader Pty Ltd and National Power South Australia Investments Limited;
- A "Retail Agreement" dated 8 March 1999 between ETSA Power Pty Ltd and National Power South Australia Investments Limited; and

- Four "Permitted Chargee Deeds", each of 30 April 1999, between the relevant State party (respectively, the Treasurer on behalf of the State of South Australia, Terra Gas Trader Pty Ltd, ETSA Power Pty Ltd and South Australian Ports Corporation), National Power South Australia Investments Limited, Australia and New Zealand Banking Group Limited and ANZ Capel Court Limited.

It also includes the full text of certain other legal documents:

- A "Foreshore Lease" dated 8 March 1999 between South Australian Ports Corporation and National Power South Australia Investments Limited, being registered lease no 8674522;
- An "Application for Deposit of a Plan of Division", registered no 8674520; and
- Sixteen Deeds of Grant of Easement granted by various parties.

Section 41A of the Public Finance and Audit Act 1987 requires me to express an opinion on the adequacy of a document that has been prepared as a summary of the contract. The section does not require me to express a view in relation to the Foreshore Lease, the Application for Deposit of Plan of Division or any of the Deeds of Grant of Easement, as they have not been summarised. However, I have had regard to those documents in forming my opinion as to the adequacy of the project documents that have been summarised.

The audit examination has not involved the review or assessment of any of the following:

- Matters occurring prior to the execution of the various project documents, such as the conduct of negotiations or instructions given in connection with the negotiations;
- The nature of the legal relationships that are established;
- The adequacy or enforceability of the contracts;
- The "commerciality" of the arrangements reflected in the contracts;
- The fact or quantum of any costs, benefits, risks or exposures arising from the contracts, or
- The performance of contractual obligations or issues that may have arisen since the execution of the contracts.

Opinion

In my opinion, having regard to the matters discussed in the "Preface" and "Scope" sections of this report, the summaries of the project documents included in the Summary are adequate in that:

- They contain substantial information as to the contents of the contracts to which they refer;
- They are not misleading as to those contents in the form and context in which they are presented; and
- The material that has been excluded as confidential appears fairly to have been characterised as such.

**Pelican Point Power Station
Project Documents Summary
Presented to Auditor-General
Pursuant to Section 41A of the Public
Finance and Audit Act 1987**

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1. INTRODUCTION

This document is a summary of the project documents in relation to the Pelican Power Station Project.

The summary has been prepared on the instructions of the Treasurer of South Australia.

It is intended that this summary be provided to the Auditor General so that he may report pursuant to section 41A of the Public Finance and Audit Act 1997.

The summary:

- does not constitute legal advice as to the effect of any of the agreements;
- is not evidence of the intentions of the parties in executing any of the agreements nor does it constitute or evidence any collateral or other agreement;
- does not address matters antecedent to execution of any of the agreements, including negotiations and instructions;
- does not address the adequacy or enforceability of any of the agreements nor the commerciality of any of the arrangements;
- does not address the fact or quantum of costs, benefits, risks and exposures arising from the contractual arrangements;
- does not address the performance of the contractual obligations of any of the parties to the agreements since execution of the relevant agreement.

The primary document is the *Implementation Agreement – Pelican Point Power Station*.

In addition there are a number of ancillary agreements being agreements that the State is obliged by the Implementation Agreement to procure be entered into by various parties. These are:

- *Pelican Point Gas Supply Agreement*;
- *Retail Agreement*;
- *Foreshore Lease*.
- *Permitted Chargee Deeds*, with respect to each of the agreements listed above;
- a number of *Easements*.

This document contains summaries of all of these documents other than the Foreshore Lease and the Easements.

The Foreshore Lease and Easements, being registered with the Land Titles Office, are available for public inspection. Consequently, rather than summarising them, full complete copies of each of those have been included.

This document does not contain summaries of any agreement (if any) not being an agreement which the State is, by reason of the Implementation Agreement, obliged to procure be entered into by any State owned entity.

Save for the State development initiatives contemplated by clause 7 of the Implementation Agreement (refer Summary Section 9.4), none of the documents include obligations on the part of the Developer or the Sponsor as to State development initiatives.

None of the agreements seek to affect in any way the rights or ability of the Auditor General to conduct such audits and investigations as he thinks appropriate under his existing powers. In the case of the Developer and the Sponsor, as these parties are not State owned entities, they are not directly the subject of audit by the Auditor General.

Note: The summaries produced refer to *clauses* and *sections*. *Clauses* are references to clauses of the agreement being summarised (e.g. clause 7 of the Implementation Agreement). *Sections* are references to sections of the summary itself (e.g. Summary Section 9.4).

2. IMPLEMENTATION AGREEMENT SUMMARY

1. DESCRIPTION OF PARTIES

The Agreement, dated 2 February 1999, is between:

THE TREASURER OF SOUTH AUSTRALIA on behalf of the **STATE OF SOUTH AUSTRALIA** (the *State*);

AND

NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED, (ARBN 086 411 814) a company incorporated in England (the *Developer*);

AND

NATIONAL POWER PLC, incorporated in England (the *Sponsor*).

2. MATERIAL DELIBERATELY EXCLUDED FROM SUMMARY BY REASON OF CONFIDENTIALITY

- 2.1 The precise method of calculation and quantum of the Commissioning Payments (Section 7.5(b)).
- 2.2 The other specified standards as to noise levels (Section 9.3).
- 2.3 The amount of the CP Guarantee (Section 22)
- 2.4 The Project Schedule (Annexure F).
- 2.5 The Project Specifications (Annexure G).
- 2.6 Exact dimensions of Balance of Lot 4 and Second Foreshore Area (section 9.7 and 22).

3. LIST OF CONTENTS

The table of contents for the Agreement is attached as an annexure to this summary.

4. STRUCTURE OF AGREEMENT AND CONDITIONS PRECEDENT

4.1 Structure of Agreement

The Implementation Agreement takes the form of the body of the Agreement, one Schedule and ten Annexures as follows:

Annexure A – form of Retail Agreement;

Annexure B – not used;

Annexure C – form of Foreshore Lease;

Annexure D – Delivered Gas Agreement;
Annexure E – not used;
Annexure F – Project Schedule;
Annexure G – Specifications;
Annexure H – form of Verification Certificate;
Annexure I – not used;
Annexure J – Balance of Lot 4.

4.2 Conditions Precedent

The substantive provisions (being clauses 4, 5, 6 and 7) of the Agreement commence on the latter of:

- the day the State gives notice to the Developer that the State is satisfied that each of certain conditions precedent has been satisfied or waived;
- the day the Sponsor notifies the State that it is satisfied that a certain condition precedent has been satisfied or waived.

The parties agree to use reasonable endeavours to procure the satisfaction of the conditions precedent

All other provisions of the Agreement come into effect on the date of the Agreement.

The conditions precedent relevant to the State are:

- receipt by the State of the Verification Certificates for each Transaction Party, the executed Agreement, opinions from the Transaction Parties' Australian and home jurisdiction legal advisers, an opinion of the State's Australian legal advisers and the CP Guarantee;
- the representations and warranties by the Transaction Parties being true both as at the date of the Agreement and as at the Date of Closing.
- no Event of Default or Potential Event of Default subsisting at the date of Closing.

The condition precedent relevant to the Sponsor is that the Development Approval is granted by 22 April 1999 on conditions which do not materially affect the cost or the time required to construct the Facility as contemplated by the Development Application or RFP.(Clause 2)

5. PAYMENT OF PURCHASE PRICE AND COMMISSIONING PAYMENTS

The State enters into the Agreement and agrees to perform its obligations under the Agreement in exchange for:

- the Sponsor agreeing to pay the Commissioning Payments to the State; and
- the Developer agreeing to pay the State the Purchase Price on the Date of Closing.

(Clause 3)

6. UNDERTAKINGS OF THE STATE

The State undertakes that on or before the Date of Closing:

- ETSA Power will enter into the Retail Agreement;
- Ports Corporation will enter into the Foreshore Lease;
- Terra Gas Trader will enter into the Delivered Gas Agreement.

The State also undertakes to give notice to the Sponsor of the Commissioning Payments though failure to do so does not release the Sponsor from its obligation to pay the Commissioning Payments, when due.

(Clause 4)

7. UNDERTAKINGS OF TRANSACTION PARTIES

7.1 General undertakings

Each Transaction Party undertakes that until the Actual Increased Operation Date:

- (a) **(Corporate reporting and information)** It will provide to the State:
 - (i) annually its audited Accounts and (the Developer only) an operating report relating to the Project in detail reasonably required by the State;
 - (ii) half yearly, its unaudited Accounts and (the Developer only) an operating report relating to the Project in detail reasonably required by the State;
 - (iii) all material notices given or received by it under a Project Document;
 - (iv) particulars of any litigation or other proceeding as to the Project or against the Developer, involving a claim exceeding \$100,000;
 - (v) any material correspondence from or with a Government Agency relating to the Developer or the Project which may have a Material Adverse Effect;
 - (vi) other information in relation to its financial condition or the Project which the State reasonably requests.
- (b) **(Accounting principles)** Its Accounts comply with current accounting practice and applicable laws and give a true and fair view of the matters with which they deal.
- (c) **(Authorisations)** Each material Authorisation required will be obtained, renewed and maintained.
- (d) **(Notice to State)** It will notify the State of:
 - (i) any Event of Default or Potential Event of Default;
 - (ii) any circumstance which may give rise to a claim, the requirement of expenditure, any environmental damage or alteration of the Project which may have a Material Adverse Effect;
 - (iii) any Casualty Occurrence or damage beyond repair of all or a material part of the Project; and
 - (iv) any change in its Authorised Officers;

- (e) **(Existence)** It (the Sponsor, only if failure would likely have a material adverse effect on the Project) will maintain its jurisdiction of incorporation and corporate existence and will not merge.
- (f) **(Compliance with law)** All laws will be complied with where non-compliance may have a Material Adverse Effect (the Developer) or a material adverse effect on the Project (the Sponsor).
- (g) **(Pay Taxes)** It will pay all Taxes unless contested in good faith and funds are held in reserve except where failure to pay may have a Material Adverse Effect (Developer) or a material adverse effect on the Project (Sponsor).
- (h) **(Compliance and enforcement of Project Documents)** It will comply with, prudently enforce its rights under, and use its best endeavours to keep valid and enforceable, Project Documents where failure reasonably is likely to give rise to a Material Adverse Effect.
- (i) **(Variation of Project Documents)** It will not in any material respect (nor allow another to), amend, terminate or accept the repudiation of, or waive any material provisions of, a Project Document where such is reasonably likely to give rise to a Material Adverse Effect.
- (j) **(Amendment of constituent documents)** It will not:
 - (i) (the Developer) amend its constitution in a material respect without the prior consent of the State (not to be unreasonably withheld); or
 - (ii) (the Sponsor), amend its constitution if it would likely have a material adverse effect on the Project.
- (k) **(Inspection)** The State may on reasonable notice inspect the Site and require the provision of copies of records.

7.2 Undertakings as to Project and Project Milestones

Each Transaction Party undertakes that (in the case of (c), (d) and (e), until the Actual Increased Operation Date)::

- (a) **(Project)** It (the Developer only) will ensure that the Project is undertaken substantially in accordance with the Project Schedule and substantially in accordance with the Specifications.
- (b) **(Project Milestones)**
 - (250MW test) It will before the Required Increased Operation Date, invite the Independent Engineer to conduct a Dependable Capacity Test to determine whether the Facility is capable of Sending Out not less than 250MW; and
 - (Required Increased Operation Date) It will ensure that the Actual Increased Operation Date is not later than the Required Increased Operation Date.
- (c) **(Regular Reports)** It will provide to the State monthly reports as to the status of the Project.
- (d) **(Inspection During Construction)** It will allow the State to inspect the Site and Facility.
- (e) **(Abandonment)** It will not abandon the Project.

7.3 Undertakings relating to the Project Documents

Each Transaction Party undertakes that, until the Actual Increased Operation Date:

- (a) **(Assignment of Project Documents)** It will not agree to any transfer or similar dealing by another party to a Project Document except with the consent of the State (not to be unreasonably withheld or delayed).
- (b) **(Dispute)** It will:
 - notify the State of any dispute with a party to a Project Document which may have a Material Adverse Effect;
 - use reasonable efforts to resolve the dispute;
 - afford the State reasonable opportunity to comment on the resolution proposed; and
 - not agree to the resolution of any such dispute if reasonably likely to have a Material Adverse Effect.
- (c) **(Replacement documents)** If a Project Document must be replaced due to default (other than its own), it must use reasonable endeavours to enter into a replacement contract where failure to do so is reasonably likely to give rise to a Material Adverse Effect.

7.4 Undertakings by the Developer

The Developer undertakes to the State, until the Actual Increased Operation Date:

- (a) **(Conduct of business)** It will ensure that the Project is carried on in accordance with Good Operating Practice and all material terms and conditions of each Necessary Licence.
- (b) **(Licences for conduct of business)** It will obtain and maintain each Necessary Licence.
- (c) **(Environmental compliance)** It will maintain procedures adequate to monitor its compliance with Environmental Law and Authorisations.
- (d) **(State of repair)** It will maintain the Project in a good state of repair and in good working order consistent with Good Operating Practice (allowing for fair wear and tear).
- (e) **(Lease)** It will only permit the Foreshore Site to be used for the purpose specified in the Lease.
- (f) **(Negative Pledge)** It will not allow any Security Interest other than a Permitted Security Interest.

7.5 Undertakings by the Sponsor

The Sponsor undertakes that:

- (a) **(Ratification)** As shareholder, it ratifies and confirms the execution, delivery and performance by the Developer of each Transaction Document.
- (b) **(Commissioning payments)** It will pay to the State, certain payments if the Actual Commercial Operation Date is not achieved by a specified date.
(Clause 5)

8. DEVELOPMENT APPLICATION AND APPROVAL

8.1 Comply with Development Approval

The Developer undertakes to comply with the Development Approval.

8.2 Authorisation and Approvals

- (a) Each Transaction Party undertakes to obtain any necessary Subsequent Development Approval.
- (b) The State undertakes to:
 - cause ERSU to act as project proponent for a Subsequent Development Approval; and
 - take steps reasonably requested of the State to facilitate obtaining any Subsequent Development Approval or other Authorisation required for the Facility.

8.3 State May Act

If the Transaction Parties fail to obtain a Subsequent Development Approval, or act in a manner adverse to obtaining any such Approval or contrary to the Development Approval or any Subsequent Development Approval or the State reasonably determines it necessary to take control of the application process to minimise risk to timely completion the State may take steps to obtain any Subsequent Development Approval.

8.4 Costs

Steps (contemplated by Sections 8.2(b) or 8.3) taken by the State / ERSU or a Transaction Party are at its own expense, other than steps taken by the State at the request of a Transaction Party to obtain a development approval or to obtain any Authorisation for anything not contemplated by the Specifications, the Project or the Facility as defined as at the date of the Agreement.

(Clause 6)

9. SITE AND ASSOCIATED MATTERS

9.1 Dredging

The State will give the Developer one year's notice (or reasonable notice in the event of an emergency or other unforeseen occurrence) of dredging activities which will require alteration or relocation of the cooling water intake and discharge pipes and associated infrastructure (*cooling water pipes*).

If alterations to or relocation of the cooling water pipes is required, the State will use reasonable efforts to minimise the extent of disruption and the works required.

However relocations or modifications will be carried out by the Transaction Parties at their expense and the State is not responsible for lost revenues or expenses incurred by them.

9.2 Access roads

The Developer will:

- build and maintain (to Council standards) an access road to the Main Site using a route approved by a Development Approval. The access road will be

a public road and be maintained by the Developer until its use is required for access to other developments in the area;

- build and maintain an access road to permit access to the Foreshore Site;
- upgrade (or pay the State or Council to upgrade) existing roads in the Pelican Point area necessary to enable construction and operation of the Facility or compliance with the Development Approval or any Subsequent Development Approval.

9.3 Noise

The Developer will ensure that Construction and operation cause noise which:

- complies with the Development Approval and any Subsequent Development Approval; and
- complies with all Environmental Laws; and
- other specified standards as to noise.

9.4 Community Amenity

The Developer will implement economic development initiatives of not less than \$2,700,000 including:

- direct and indirect secondment, employment, engagement and training of existing personnel of Synergen Pty Ltd (as agreed between the Developer and Synergen Pty Ltd);
- establishment of a regional office in Adelaide;
- sponsorship of educational institution initiatives in the State;
- development of specialised training courses in the State;
- introduction and sponsorship of an annual Gas Turbine Conference in the State; and
- community improvement initiatives for the area in the vicinity of the Site.

The Developer will:

- implement the initiatives in accord with timetables to be agreed between the Developer and the State prior to the Date of Closing; and
- provide evidence of its implementation.

9.5 Air emissions

The Developer will:

- comply with all Environmental Laws as to emissions; and
- whether or not such is now or any time more stringent, keep ground level concentrations of emissions below 60% of the average hourly concentration limits in the National Environment Protection Measure on Ambient Air Quality.

9.6 Land

The State will:

- on or before 30 April 1999, grant any easements, including the Cooling Water Infrastructure Easement, reasonably required by the Developer for the Facility on land which it owns or controls;
- on or before 30 April 1999, procure that the Main Site is transferred to the Developer;
- assist the Developer to obtain on or before 15 May 1999, any easements reasonably required for the Facility on land not owned or controlled by the State (including any transmission line easement which is to be located in whole or in part on privately owned land).

9.7 Return of Land

The Developer will:

- for nominal consideration, transfer to Ports Corporation the Second Foreshore Area, upon not less than one year's notice if it requires the land for port facilities development and or expansion within two years of giving notice;
- for fair market value of the land and fixed improvements, transfer to Ports Corporation the Balance of Lot 4, upon not less than one year's notice (given not before 1 January 2004), if it requires the land for development and or expansion of infrastructure associated with then current or expected port facilities.
- not effect improvements to either piece of land inconsistent with such likely future use by Ports Corporation (the Cooling Water Infrastructure Easement excepted); and
- not dispose of its interest in the land without first obtaining the same undertakings from the Transferee.

(Clause 7)

10. REPRESENTATION AND WARRANTIES BY THE STATE

The State represents and warrants as at the date of the Agreement, knowing that the Transaction Parties rely on it:

- **(Power)** It has the power to enter into and perform the Agreement.
- **(Authorisations)** It has taken all necessary action to authorise the entry into and perform the Agreement.
- **(Agreement binding)** The Agreement is valid and binding on it.
- **(Transactions permitted)** Its execution and performance of the Agreement did not and will not violate any law.

(Clause 8)

11. REPRESENTATIONS AND WARRANTIES BY TRANSACTION PARTIES

11.1 Representations and warranties by each Transaction Party

Each Transaction Party represents and warrants:

- (a) **(Status)** It validly exists as a corporation .
- (b) **(Power)** It has the power to enter into and perform the Transaction Documents and to carry on its business.
- (c) **(Authorisations)** It has taken all necessary action to authorise the entry into and performance of the Transaction Documents.
- (d) **(Documents binding)** Each Transaction Document is valid and binding on it.
- (e) **(Transactions permitted)** Its execution and performance of the Transaction Documents did not and will not violate any law or any other agreement.
- (f) **(Accounts)** Its Latest Accounts give a true and fair view of the matters with which they deal and comply with current accounting practice and with all applicable laws and that there has been no change in its state of affairs which is likely to have a Material Adverse Effect. All material Finance Debt and other material contingent liabilities are disclosed in those Accounts.
- (g) **(No litigation)** There is no undisclosed litigation or other proceeding current, pending or threatened against the Developer which is reasonably likely to have a Material Adverse Effect.
- (h) **(No default)** It is not in default under a Transaction Document or an Authorisation nor would there be default after notice or lapse of time.
- (i) **(Authorisations)** Each relevant Authorisation has been obtained, is in full force and has been complied with in all material respects
- (j) **(Law)** The Developer has complied with all laws where breach is reasonably likely to have a Material Adverse Effect and the Project is in material compliance with all applicable laws.
- (k) **(Environmental Law)** There are no circumstances involving the Developer giving rise to a substantial claim or requirement against it under any Environmental Law reasonably likely to have a Material Adverse Effect.
- (l) **(Solvency)** It is solvent.
- (m) **(Winding up)** It is not subject to any Liquidation.
- (n) **(Commercial benefit)** The Transaction Documents are for its commercial benefit.
- (o) **(Partnerships)** The Developer is not an undisclosed member of any partnership or joint venture.
- (p) **(Corporate tree)** The Developer is wholly owned by the Sponsor.
- (q) **(Single purpose)** The Developer's only business is the Project.
- (r) **(Representations true)** The Developer's, representations and warranties in the Project Documents are, in all material respects, true and not misleading.
- (s) **(Negative Pledge)** The Developer has not created nor allowed to exist any Security Interest which is not a Permitted Security Interest.

11.2 Reliance on representations and warranties; Repetition

The representations and warranties are made on the date of the Agreement, on the Date of Closing and on the first day of each Quarter until the Actual Increased Operation Date. The Transaction Parties know the State relies on them.

(Clause 9)

12. ACKNOWLEDGEMENTS BY TRANSACTION PARTIES

Each Transaction Party acknowledges the State does not:

- Guarantee the obligations of any DP Party nor of ElectraNet SA.
- undertake to maintain any particular, level of ownership of, or control over, any DP Party or ElectraNet SA nor that.

any of them will remain of any particular financial standing.

13. EVENTS OF DEFAULT

13.1 Events of Default

The Events of Default are:

- (a) **(Obligations under the Agreement)** A Transaction Party:
 - not paying an amount due under the Agreement or, if for technical or administrative reasons alone, within three Business Days of notice requiring payment.
 - failing to comply with specified project milestones.
 - failing to satisfy anything which the State made a condition of its waiving compliance with this Agreement.
- (b) **(Misrepresentation)** There is a misrepresentation reasonably likely to have a Material Adverse Effect.
- (c) **(Liquidation and similar etc)** A Transaction Party is subject to Liquidation or similar or is unable, or is deemed unable, to pay its debts when due.
- (d) **(Enforcement against assets)** Other than pursuant to a Permitted Security Interest, an insolvency appointee is appointed to, or a Security Interest (other than a Permitted Security Interest) becomes enforceable or execution is enforced over any of the assets and undertaking of the Developer unless, if contested in good faith, it is discontinued within a period of 14 days.
- (e) **(Reduction of capital)** Without the consent of the State (not to be unreasonably withheld), the Developer reduces its capital or takes certain steps to allow reduction of its capital, not being a redemption of redeemable shares or similar.
- (f) **(Investigation)** There is an investigation into the Developer under companies legislation in circumstances material to its financial condition.
- (g) **(Vitiation of the Agreement)** Any part of the Agreement is, or a party other than the State claims it is, terminated, void, or of limited force and effect other than as a result of acts of the State:

- (h) **(Revocation of Authorisation)** Any material Authorisation expires, terminates or is adversely modified (for any reason) and is not replaced by another acceptable, to the State.
- (i) **(Control of Sponsor)** There is a material change in the ownership, management or control of the Developer (other than as permitted by the Agreement).
- (j) **(Compulsory acquisition)** Any substantial part of the Developer, or of any person's equity in the Developer, is compulsorily acquired or divested and which is reasonably likely to have a Material Adverse Effect.
- (k) **(Governmental interference)** A law or action by a Government Agency makes illegal or restricts the effectiveness of a Transaction Document or otherwise is reasonably likely to have a Material Adverse Effect.
- (l) **(Environmental event)** Any person takes action or there is a requirement of expenditure or of cessation or alteration of activity under Environmental Law, which is reasonably likely to have a Material Adverse Effect.
- (m) **(Necessary Licence)** Any Necessary Licence is not obtained, is varied or is not held by the relevant party, which is reasonably likely to have a Material Adverse Effect and that situation is not promptly remedied.
- (n) **(CP Guarantor downgrade)** The credit rating of any CP Guarantor is downgraded to less than the required rating and that is not remedied within 30 days.
- (o) **(Permitted Security Interests)** Any Security Interest other than a Permitted Security Interest exists over the Developer.

13.2 Consequences of Default

Without limiting rights provided by law, after an Event of Default has subsisted for at least 90 days after notice of the Event of Default, the State may at the cost of the Transaction Parties do all or any of the following:

- by notice terminate the State's obligations under or in relation to its Agreement;
- commence proceedings or other remedy;
- appoint consultants to review and report on the situation, the Transaction Parties being obliged to cooperate as to that review.

(Clause 11)

14. LIABILITY AND INDEMNITY

14.1 Indemnity by Transaction Parties

Each Transaction Party indemnifies the State against any loss and expense the State may sustain as a direct or indirect consequence of:

- the occurrence of any Event of Default;
- any exercise of any rights and remedies; or
- reliance on conduct of, or information provided by, a Transaction Party,

except to the extent arising due to the negligence of, breach of contract or breach of statutory duty by the State. Notwithstanding this, the State's sole right as to breach of the project milestones is the entitlement to payment of the Commissioning

Payments (and its right to claim under the CP Guarantee) together with its rights to recover any associated enforcement costs or expenses.

14.2 No Liability for Consequential Loss

No Transaction Party is liable for indirect or consequential loss or damage.

(Clause 12)

15. CONFIDENTIALITY

15.1 Transaction Party Confidentiality

Each Transaction Party must keep the terms of the Agreement confidential, though it may make disclosures to:

- comply with any applicable law; or
- provided they undertake to keep the information confidential:
 - its employees (on a need to know basis), advisers, financiers (including any proposed Permitted Chargee) and insurers;
 - potential purchasers of its shares or of its business; and
 - any Related Body Corporate.

15.2 State Confidentiality

The State must not, without consent, disclose Confidential Information unless:

- to Parliament, the Governor, Cabinet, any Minister of the Crown or Parliamentary or Cabinet committee or sub-committee having a proper interest in the Agreement.
- by reason of constitutional convention or for the purpose of performing its own obligations under the Agreement or monitoring the performance of another party under the Agreement or the law requires it.
- in defending legal proceedings.

In this context, ***Confidential Information*** means information disclosed by or on behalf of a Transaction Party that:

- is by its nature confidential or by the circumstances in which it is disclosed is confidential; or
- is designated by the disclosing party as confidential or identified in terms connoting its confidentiality,

but does not include information which is or becomes public knowledge other than by reason of breach of this Agreement.

15.3 Public Announcements

Except as required by applicable law or the requirements of any Government Agency, all press releases and other public announcements relating to the Agreement must be in terms agreed by the State, the State agreeing to consult with the Transaction Parties.

(Clause 13)

16. INTEREST ON OVERDUE AMOUNTS

Interest accrues (and is payable on demand) on overdue amounts both before and after judgment on a daily basis at the rate of 2% per annum over the Bank Bill Rate.

(Clause 14)

17. DISPOSALS

17.1 Restriction on Disposal and Security Interests

No Transaction Party may, (prior to the Actual Increased Operation Date), Dispose of any part of its interest in the Agreement or the Project Assets, except:

- with the consent of the State,
not to be unreasonably withheld or delayed if satisfied that:
 - the Transferee has the technical and financial capability to perform the assigned obligations;
 - the Transferee has entered into a deed in favour of the State to be bound as if it were the Transferor under the Agreement; and
 - all requisite Authorisations are obtained.
- for the purposes of securing financial accommodation, by way of mortgage, charge, pledge or assignment by way of security provided the Permitted Chargee enters into a Permitted Chargee Deed to which the State agrees.
- a Permitted Disposal which occurs more than 3 years after the date of the Agreement.

A Permitted Disposal is:

- a Disposal of any Marketable Securities in a Transaction Party; where:
 - the Sponsor retains a 50.1% interest (direct and indirect) in the ordinary share capital of the Developer; and
 - the Developer retains operational control of the Facility and has continuing access to the technical skills and expertise of the Sponsor;
or
- the entry into by the Developer of any partnership or joint venture (or other form of consortium) in relation to the Project where:
 - the Sponsor retains (directly or indirectly) a 50.1% beneficial interest in the Project; and
 - the Developer retains operational control of the Facility and has continuing access to the technical skills and expertise of the Sponsor.

17.2 Change in Shareholding

A Disposal of any Marketable Securities in a Transaction Party or any change in the ultimate holding company of a Transaction Party, except where the Transaction Party or the ultimate holding company respectively is listed on a public stock exchange, requires the prior written consent of the State which must not be unreasonably withheld or delayed.

17.3 Continuing Liability of Transferor

A Disposal by a Transaction Party in accordance with the Agreement relieves the transferor of liabilities to the extent they are assumed by the Transferee, but without prejudice to already accrued and unsatisfied obligations.

17.4 Disposal by the State

The State may at any time, after the Date of Closing, Dispose any part of its interest in the Agreement to any Government Agency or person controlled by the State without the consent of any Transaction Party.

(Clause 15)

18. NOTICES

The Agreement contains provisions stipulating how notices and other communications in connection with the Agreement are given and by whom.

(Clause 16)

19. MISCELLANEOUS

19.1 Stamp duty and costs

- (a) Each party bears its own costs as to the preparation of the Agreement, though the Transaction Parties are responsible for stamp duty, registration and similar fees.

19.2 Amendment

The Agreement can only be amended by a further agreement.

19.3 Waiver and exercise of rights

The right of any party to insist on strict performance of the Agreement will not be affected by any previous waiver or course of dealing.

19.4 Rights cumulative

The rights of the State are in addition to any right provided by law.

19.5 Further assurance

Each party must do all things reasonably necessary to give effect to the Agreement.

19.6 Governing law and jurisdiction

The Agreement is governed by the laws of South Australia. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

19.7 Survival of representations and indemnities

The representations and warranties in the Agreement survive the execution of this Agreement and the Date of Closing.

Each indemnity in the Agreement is a continuing obligation, payable on demand, is a separate and independent obligation and survives termination or discharge of the Agreement.

19.8 Severance

If any provision is unenforceable it will be read down to that extent of the unenforceability.

19.9 Time

Time is of the essence.

19.10 Counterparts

The Agreement may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one agreement.

19.11 Moratorium Legislation

To the full extent permitted all moratoria are excluded.

19.12 Consents and Opinions

Except where expressly stated the State may give or withhold, or give conditionally, approvals and consents, may be satisfied or unsatisfied, may form opinions and may exercise its rights, powers and remedies at its absolute discretion.

(Clause 17)

20. GST

Where a party is required to reimburse or indemnify the other, the amount reimbursed or the subject of the indemnity is taken to be the actual amount incurred less the amount of any GST input tax credit or similar rebate which can be claimed and to the extent that the party to be reimbursed or indemnified is liable to GST by virtue of the receipt of the reimbursed amount or the indemnity amount, the party reimbursing/indemnifying shall pay to the other an amount equal to the GST incurred by the party to be reimbursed/indemnified.

(Clause 17)

21. ACKNOWLEDGEMENT BY TRANSACTION PARTIES

Each Transaction Party confirmed that:

- it did not enter into the Agreement and would not enter into any Project Document in reliance on, or as a result of, any conduct of any kind of or on behalf of the State or any DP Party; and
- neither the State nor any DP Party is obliged to do anything (including disclose anything or give advice),

except as expressly set out in the Agreement or a Project Document.

(Clause 18)

22. GLOSSARY

Terms used in this Summary and which are defined in the Implementation Agreement are included below. What appears is a summary of the definition, if not the definition itself.

Accounts means profit and loss accounts, balance sheets and cashflow statements together with any statements, reports (including any directors' and auditors' reports) and notes attached to or intended to be read with any of them.

Actual Commercial Operation Date means the date on which the Independent Engineer certifies to the State that the Facility is operated by or on behalf of the Developer and has successfully passed the Dependable Capacity Test confirming that the capacity of the Facility is not less than 150MW.

Actual Increased Operation Date means the date on which the Independent Engineer certifies to the State that the Facility is operated by or on behalf of the Developer and has successfully passed the Dependable Capacity Test confirming that the capacity of the Facility is not less than 250MW.

Authorisation includes:

- any consent, authorisation, registration, filing, lodgement, agreement, notarisation, certificate, permission, licence, approval, authority or exemption from, by or with a Government Agency; or
- in relation to anything which will be fully or partly prohibited or restricted by law if a Government Agency intervenes or acts in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Authorised Officer means:

- (a) in respect of a Transaction Party, any director or secretary, or any person from time to time nominated as an Authorised Officer by that Transaction Party by a notice to the State accompanied by certified copies of signatures of all new persons so appointed; and
- (b) in respect of the State, any person from time to time nominated as an Authorised Officer by the State by a notice to the Developer (on behalf of each Transaction Party) accompanied by certified copies of signatures of all new persons so appointed.

Balance of Lot 4 means that piece of land identified in annexure J to the Implementation Agreement

Bank Bill Rate for a period means:

- (a) the average bid rate displayed at or about 10.30am (Adelaide time) on the first day of that period on the Reuters screen BBSY page for a term equivalent to that period; or
- (b) if:
 - (i) for any reason that rate is not displayed for a term equivalent to that period; or
 - (ii) the basis on which that rate is displayed is changed

then BBR will be the rate determined by the State to be the average of the buying rates quoted to the State by 3 Australian banks selected by the State at or about that time on that date. The buying rates must be for bills of exchange accepted by an Australian bank selected by the State and which have a term equivalent to that period.

Rates will be expressed as a yield percent per annum to maturity.

Business Day means a weekday on which banks are open for business in Adelaide.

Capacity or **capacity** means the ability or capability of the Facility to generate electricity which is capable of being Sent Out and expressed in MW. References to capacity in any half-hour period is capacity calculated as the average half-hourly capacity weighted with respect to time, unless otherwise stipulated.

Casualty Occurrence means any event(s) which entitles any Transaction Party to claim under insurance or similar for physical loss or damage.

Commencement Time means the date and time at which Chapter 3 of the National Code commences to operate under the National Electricity Law.

Commissioning Payments means the amount(s) (if any) payable by the Sponsor pursuant to clause 5.5(b) of the Agreement (see Section 7.5).

Construction means the design and engineering, procurement and manufacture and performance of all work, materials and equipment required to construct, install and commission the Facility.

Cooling Water Infrastructure Easement means an easement or lease (which is to be registered where registration is available) over Ports Corporation land in favour of the Developer which entitles the Developer to construct, install, operate, maintain, replace or supplement cooling water intake and discharge piping and associated infrastructure reasonably required by the Developer for the Facility.

CP Guarantee means an irrevocable, on demand, Guarantee or similar:

- issued in favour of the State as security for payment of the Commissioning Payments;
- in form and substance acceptable to the State (including that it is claimable within Australia);
- issued by a bank or financial institution acceptable to the State which has a rating at least equal to the Required Rating;
- having an expiry date not earlier than seven days after the last due date of any Commissioning Payment; and
- being for an amount not less than a specified amount.

CP Guarantor means each issuer of a CP Guarantee.

Date of Closing means the seventh day after the substantive provisions of the Implementation Agreement.

Delivered Gas Agreement means an agreement between Terra Gas Trader and the Developer in the form of Annexure D of the Agreement.

Dependable Capacity Test means a test to determine, amongst other matters, the dependable capacity of the Facility, the procedure for which is set out in Schedule 1 of the Implementation Agreement.

Development Application means the three development applications made by ERSU as Project Proponent in relation to the Facility as amended from time to time.

Development Approval means any approval(s) granted by the Minister for Transport, Urban Planning and The Arts in relation to the Development Application including any conditions which may be imposed by the Minister. **Subsequent Development Approval** means any future amendments to the Development Approval(s) and or any subsequent development or building approvals necessary to enable the Facility to be Constructed.

Dispose means assign, transfer or otherwise dispose of any legal or equitable interest, either in whole or in part, whether by sale, lease, declaration or creation of a trust or otherwise and **Disposal** is to be construed accordingly.

DP Party means:

- ETSA Power;
- Terra Gas Trader; or
- Ports Corporation,

and ***DP Parties*** means any one or more of them.

ElectraNet SA means ETSA Transmission Corporation.

Electricity Act means the *Electricity Act 1996* (SA) as amended.

Environmental Law means a provision of a law or a law, which relates to an aspect of planning, the environment or health.

ERSU means the Electricity Reform and Sales Unit, being a division of the Department of Treasury and Finance.

ETSA Power means ETSA Power Pty Ltd ACN 082 928 701.

Event of Default means any of the events specified in clause 11.1 of the Agreement (see Section 13).

Facility means the electricity generating facility together with associated and ancillary infrastructure and property (including switchyard, connection to transmission network, gas lateral, cooling water piping, access roads, transmission line and towers, foreshore site) which the Developer is to construct or procure to be constructed and operated in accordance with the Agreement.

Finance Debt means any indebtedness, present or future, actual or contingent in respect of money borrowed or raised or any financial accommodation whatever. It includes indebtedness under or in respect of a negotiable or other financial instrument, Guarantee, interest, gold or currency exchange, hedge or other arrangement of any kind, redeemable share, share the subject of a Guarantee, discounting arrangement, finance or capital lease, hire purchase, deferred purchase price (for more than 90 days) of an asset or service or an obligation to deliver goods or other property or provide services paid for in advance by a financier or in relation to another financing transaction.

Foreshore Lease means a lease between Ports Corporation and the Developer in the form of Annexure C to the Implementation Agreement.

Foreshore Site means the land the subject of the Foreshore Lease.

Good Operating Practice means at a particular time in respect of a particular result, any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry in South Australia and Australia prior to such time, or any of the practices, methods and acts which in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Operating Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a range of possible practices, methods or acts having due regard for, among other things, manufacturers' warranties, the requirements of applicable laws and of relevant Government Agencies and the requirements of the Project Documents.

Government Agency means any government or any governmental, semi-governmental or judicial entity or authority. It also includes any self-regulatory organisation established under statute or any stock exchange, NEMMCO and NECA.

Guarantee means any guarantee, indemnity, letter of credit, legally binding letter of comfort or suretyship. It includes any other obligation or irrevocable offer (whatever called and of whatever nature):

- (a) to pay or to purchase;
- (b) to provide funds (whether by the advance of money, the purchase of or subscription for shares or other securities, the purchase of assets, rights or services, or otherwise) for the payment or discharge of;
- (c) to indemnify against the consequences of default in the payment of; or
- (d) to be responsible otherwise for,

an obligation or debt of another person, a dividend, distribution, capital or premium on shares, stock or other interests, or the solvency or financial condition of another person.

Independent Engineer means a person appointed by, and at the expense of, the State at any time and from time to time, approved by the Developer (such approval not to be unreasonably withheld).

Investment Grade means, with respect to a person, that the person has a credit rating of at least BBB – by Standard & Poor’s Rating Group or an equivalent rating by Moody’s Investors Service, Inc (or any replacement rating classification by either rating service which is determined in substantially the same manner).

Latest Accounts means, at any time, the latest audited consolidated annual or semi-annual accounts of a Transaction Party prepared and provided to the State in accordance with clause 5.1(a) of the Agreement (see Section 7.1(a)).

Lease means the Foreshore Lease.

Liquidation includes receivership, compromise, arrangement, amalgamation, administration, reconstruction, winding up, dissolution, assignment for the benefit of creditors or bankruptcy.

Main Site means as the land identified as being that to be sold to the Developer.

Marketable Security has the meaning given in the Corporations Law, but also includes:

- (a) a document referred to in the exceptions to the definition of **debenture** in the Corporation Law;
- (b) a unit or other interest in a trust or partnership;
- (c) a negotiable instrument; and
- (d) a right or an option in respect of a Marketable Security, whether issued or unissued, including any of the above.

Material Adverse Effect means, in the reasonable opinion of the State, a material adverse effect on the ability of a Transaction Party to perform its obligations under the Agreement, or on the financial condition or business of a Transaction Party.

MW means megawatt(s).

MWh means megawatt hour(s).

National Code means the National Electricity Code within the meaning of the National Electricity Law.

National Electricity Law means the schedule to the National Electricity (South Australia) Act 1996 (SA).

national grid has the meaning:

- (a) prior to the Commencement Time, given in the National Code; and

- (b) otherwise, given to *transmission network* in the Electricity Act and owned or operated by ElectraNet SA.

Necessary Licence means any of the following Authorisations or any replacement of any such Authorisations:

- exempt futures market declaration;
- each Generation Licence.

NEMMCO means National Electricity Market Management Company Limited (ACN 072 010 327).

Non-Business Day means a day that is not a Business Day.

Notional Quantity means:

- (a) for each of the ten Calculation Periods having the highest Specified Prices in each Trading Day, 75MWh; and
- (b) in each other Calculation Period, zero MWh.

Permitted Chargee means, in respect of the Developer, a person of Investment Grade who provides financial accommodation (“**financier**”) to the Developer which is secured over the property, assets and undertaking of the Developer or the Facility. It includes any person who takes and holds such security for the benefit of any financier and any person claiming through that person or under the security (including any person acquiring those rights or any of them upon realisation of the security) who in each case, enters into, or authorises the entry into of, a Permitted Chargee Deed.

Permitted Chargee Deed means a deed between the Developer, a Permitted Chargee and the State on terms agreed by the Parties, acting reasonably, which terms will include:

- State to notify defaults under the agreement to any Permitted Chargee;
- State to allow reasonable period for the Permitted Chargee to cure such defaults;
- State not to terminate the agreement if the Developer’s obligations under the agreement are performed; and
- the Permitted Chargee to give notice (prior notice where reasonable) to the State before enforcing any Security Interest the subject of that Permitted Chargee Deed against the Facility.

Permitted Security Interest means:

- a Security Interest of which full details have been given to the State before the date of the Agreement, or a Security Interest created after the date of the Agreement, in each case if:
 - the State has consented to that Security Interest; and
 - the amount secured by that Security Interest (other than costs, fees and uncapped interest) does not increase beyond the amount in respect of which the State has consented; or
- a lien which arises solely by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue for payment; or
- a Security Interest the subject of a Permitted Chargee Deed.

Ports Corporation means South Australian Ports Corporation.

Potential Event of Default means anything which with notice, time or both would become an Event of Default.

Power means any right, power, authority, discretion of, or remedy conferred on, the State by or under this Agreement or any applicable law.

Project means the project comprising:

- the entry into and performance of the Agreement;
- the entry into each Project Document;
- the Construction of the Facility;
- the connection of the Facility to the national grid; and
- energy trading associated with the Facility,

with the intent of having the Actual Increased Operation Date achieved by the Required Increased Operation Date.

Project Assets means the respective assets and undertaking of each Relevant Party in relation to the Project and the Facility, as replaced and supplemented from time to time.

Project Document means:

- the Retail Agreement;
- the Foreshore Lease; or
- the Delivered Gas Agreement,

and **Project Documents** means one or more of them.

Project Milestones means the events listed in clause 5.2(b) of the Agreement (see Section 7.2(b)).

Project Schedule means the detailed program in Annexure F to the Agreement to the Agreement:

Purchase Price means \$29,900,000.

Quarter means each 3 month period commencing on 1 January, 1 April, 1 July and 1 October in any year and **quarterly** is to be construed accordingly.

Related Body Corporate has the meaning given to that term in Section 9 of the Corporations Law.

Relevant Party means the Developer.

Request for Proposals (or **RFP**) means the request for proposals issued by the State dated November 1998.

Required Increased Operation Date means 1 November 2001.

Required Commercial Operation Date means 1 November 2000.

Required Rating means a credit rating of A or better by Standard & Poor's Rating Group or an equivalent rating by Moody's Investors Service, Inc (or any replacement rating classification by either rating service which is determined in substantially the same manner).

Retail Agreement means an agreement between ETSA Power and the Developer in the form of Annexure A to the Agreement.

Second Foreshore Area means a particular piece of land along Port Adelaide River agreed to be transferred to the Developer.

Security Interest includes any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind. It includes:

- anything which gives a creditor priority to other creditors with respect to any asset; and
- retention of title other than in the ordinary course of day-to-day trading and a deposit of money by way of security but it excludes a charge or lien arising in favour of a Government Agency by operation of statute unless there is default in payment of moneys secured by that charge or lien.

Sent Out has the meaning in the National Code.

Site means the Main Site and the Foreshore Site.

Specifications means the specifications and plans in Annexure G to the Implementation Agreement.

Sponsor means National Power PLC.

Subsidiary has the meaning given in the Corporations Law, but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (expressions used in this paragraph have the meanings given for the purposes of Parts 3.6 and 3.7 of the Corporations Law) and, without limitation:

- (a) a trust may be a Subsidiary; and
- (b) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a corporation for the purposes of which a unit or other beneficial interest will be regarded as a share.

Tax includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding which is levied or imposed by a Government Agency, and any related interest, penalty, charge, fee or other amount.

Terra Gas Trader means Terra Gas Trader Pty Ltd ACN 083 078 693.

Trading Day means, prior to the Commencement Time, a period of 24 hours commencing at 04:00 eastern standard time on a day and ending at 04:00 eastern standard time on the following day and, from the Commencement Time, a trading day as defined in the National Code.

Transaction Document means:

- the Agreement; or
- a Project Document,

and **Transaction Documents** means any one or more of them.

Transaction Party means:

- the Developer; or
- the Sponsor,

and **Transaction Parties** means any one or more of them.

(Clause 1)

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Implementation Agreement

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3. GAS SUPPLY AGREEMENT SUMMARY

1. DESCRIPTION OF PARTIES

The Agreement was made 8 March 1999 between:

TERRA GAS TRADER PTY LTD ACN 083 078 693 (“**Seller**”); and
NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED ARBN 086 411 814 (“**Buyer**”).

2. Material Deliberately Excluded from Summary by Reason of Confidentiality

- 2.1 The Annual Contract Quantity.
- 2.2 The CCGT Maximum Daily Quantity.
- 2.3 The Default Rate.
- 2.4 The Maximum Hourly Quantity.
- 2.5 OCGT Maximum Daily Quantity.
- 2.6 The Commissioning Commencement Date and the parameters within which the Buyer may adjust the Commissioning Commencement Date.
- 2.7 The Maximum Quantity of Commissioning Gas which the Seller may be obliged to deliver.
- 2.8 The OCGT Commencement Date and the parameters within which the Buyer may adjust the OCGT Commencement Date.
- 2.9 The aggregate number of hours per day that the Buyer may off-take gas during the OCGT Supply Period.
- 2.10 The formula for calculating the OCGT Unauthorised Off-take Gas Charge.
- 2.11 The CCGT Commencement Date and the parameters within which the Buyer may adjust that date.
- 2.12 The periods of minimum notice the Buyer is required to give as to its forecasts (clause 6.4).
- 2.13 The specified tolerance in the changes to nominations.
- 2.14 The nomination variation charge formula.
- 2.15 The tolerance allowed before a quantity of gas taken is regarded as Unauthorised Off-take in the CCGT Supply Period.
- 2.16 The formula by which the CCGT Unauthorised Off-take Charge is to be calculated.
- 2.17 The Commissioning Variable Charge Rate.

- 2.18 The OCGT Fixed Charge.
- 2.19 The OCGT Variable Charge Rate.
- 2.20 The CCGT Fixed Charge.
- 2.21 The CCGT Variable Charge Rate.
- 2.22 The Minimum Period required before a credit for Pipeline FM Events may be claimed.
- 2.23 The formula used to calculate the Pipeline FM Credit.
- 2.24 The minimum pressure at which gas is to be delivered.
- 2.25 The Gas Specification.
- 2.26 The priority stipulated for dealing with the circumstance of the Seller having available for supply to all of its gas customers less than that quantity nominated by those customers.
- 2.27 The specified requirements as to insurance.

3. List of Contents

The table of contents of the agreement is attached as annexure to this Summary.

Note: references to “clauses” in this summary are to clauses in the Agreement.

4. DEFINITIONS AND INTERPRETATION

4.1 Definitions

In the Agreement:

“**Annual Contract Quantity**” means, in respect of a Contract Year, a specified quantity.

“**Base Date**” means 1 July 1998.

“**Business Day**” means a day upon which banks are open for general business in the City of Adelaide.

“**Buyer’s Site**” means the premises occupied by the Buyer at Pelican Point, South Australia.

“**CCGT Commencement Date**” means the date referred to in clause 6.1.

“**CCGT Fixed Charge**” means the charge referred to in clause 8.3(a).

“**CCGT Maximum Daily Quantity**” means a specified quantity.

“**CCGT Supply Period**” means the period commencing on the CCGT Commencement Date and ending on 1 January 2006.

“**CCGT Unauthorised Off-take Charge**” means the charge referred to in clause 6.8.

“**CCGT Variable Charge**” means the charge referred to in clause 8.3(b).

“**CCGT Variable Charge Rate**” means the charge rate referred to in clause 8.3(b).

“**Commissioning Commencement Date**” means the date referred to in clause 4.1.

“**Commissioning Period**” means the period commencing at 6.00am on the Commissioning Commencement Date and ending at 6.00am on the OCGT Commencement Date.

“**Contract Year**” means the period commencing on 1 January in each year during the CCGT Supply Period and ending on the following 1 January, except in the case of the first Contract Year which will be the period from the CCGT Commencement Date to the following 1 January, and the last Contract Year will be the period to the last day of this Agreement from the preceding 1 January.

“**day**” means a period of 24 hours commencing and ending at 6:00 am.

“**Default Rate**” means the Interest Rate plus a specified margin.

“**Delivery Point**” means a point on the existing Pipeline System on Torrens Island.

“**Firm Delivery Obligation**” means the obligation to deliver gas without interruption except in specified circumstances or substantially those circumstances.

“**Force Majeure Event**” means any event or circumstance not within the control of a party, and which by the exercise of reasonable care but excluding any measures which are not commercially or economically feasible, that party is not able to prevent or overcome.

“**gas**” means any naturally occurring mixture of hydrocarbons or mixture of hydrocarbons and non-combustible gases consisting primarily of methane which at a temperature of 15° Celsius and at an absolute pressure of 101.325 kPa are predominantly in a gaseous state.

“**Gas Connection Facilities**” means all works, structures, equipment and plant located between the Pipeline System (in its configuration at the date of this Agreement) and the Delivery Point, which will be used by the Seller for the supply of gas under this Agreement.

“**Gas Specification**” means the specifications described in Schedule 1 to the Agreement.

“**GJ**” means one gigajoule.

“**Government Agency**” means any government or any governmental or semi-governmental body, agency, department or authority and any person (whether autonomous or not) charged with the administration of any law which applies to this Agreement.

“**Government Impost**” means any royalty (whether based on value, profit or otherwise), petroleum resource rent tax, environmental tax, goods and services tax, carbon tax, value added tax or other tax (other than income tax and capital gains tax), excise, levy, fee, rate or charge imposed by any Government Agency or any other authority authorised by law to impose such an impost other than any such impost levied by the State of South Australia or any Government Agency thereof which discriminates solely against the Power Plant.

“**Gross Heating Value**” means the number of megajoules produced by the complete combustion of one cubic metre of gas with air, at a temperature of

15° Celsius and at an absolute pressure of 101.325 kPa, with the gas free of all water vapour, the products of combustion cooled to a temperature of 15° Celsius and the water vapour formed by combustion condensed to the liquid state.

“Insolvency Event” means:

- (a) an application is made to a court for an order or an order is made that a body corporate be wound up;
- (b) an application is made to a court for an order appointing a liquidator, or provisional liquidator, in respect of a body corporate or one of them is appointed whether or not under an order;
- (c) an administrator is appointed;
- (d) a body corporate enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of all or any of its creditors, or it proposes a re-organisation, moratorium or other administration involving any of its creditors;
- (e) a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of its intention to do so;
- (f) a body corporate is, or states that it is unable to, pay its debts as and when they become due and payable;
- (g) as a result of section 459F(1) of the Corporations Law the body corporate is taken to have failed to comply with a statutory demand; or
- (h) in relation to the property of a body corporate, a receiver, or receiver and manager, is appointed in relation to that property or a mortgagee of the body corporate takes possession of that property for the purpose of enforcing a mortgage, in each case other than pursuant to a security interest the subject of a Permitted Chargee Deed.

“Interest Rate” means the “Reference Interest Rate” as published by the Australia and New Zealand Banking Group Limited in the financial press from time to time and if at any time the rate ceases to be published, then such other rate per annum as the parties may agree is a reasonable substitute, or failing agreement, as may be determined by a nominee of the Chairman of the South Australian Branch of the Institute of Chartered Accountants in Australia. Except where otherwise specifically provided in this agreement, all interest calculations are to be based on interest compounding at the end of each quarter (or part thereof).

“Investment Grade” means, with respect to a person, that the person has a credit rating of at least BBB – by Standard & Poor’s Rating Group or an equivalent rating by Moody’s Investors Service, Inc (or any replacement rating classification by either rating service which is determined in substantially the same manner).

“Marketable Security” has the meaning given in the Corporations Law, but also includes:

- (a) a document referred to in the exceptions to the definition of **debenture** in the Corporation Law;
- (b) a unit or other interest in a trust or partnership;
- (c) a negotiable instrument; and

- (d) a right or an option in respect of a Marketable Security, whether issued or unissued, including any of the above.

“Maximum Daily Quantity” or **“MDQ”** means the OCGT Maximum Daily Quantity or the CCGT Maximum Daily Quantity, as the case requires. Where the term **“MDQ”** is used in relation to a gas supply agreement other than this Agreement, the term means the maximum quantity of gas which the Seller is obliged to deliver on a day under that gas supply agreement.

“Maximum Hourly Quantity” means a specified quantity.

“Metering Equipment” means the equipment and instruments which are to be used to measure and monitor the pressure, volume, temperature and other specifications of gas being supplied by the Seller to the Buyer under this Agreement.

“Minimum Annual Quantity” means, in respect of a Contract Year, 12.32Pj.

“Nominated Off-take Period” means the period referred to in clause 5.4.

“Nomination Variation Charge” means the charge referred to in clause 6.7.

“Nomination Variation Charge Rate” means the rate referred to in clause 6.7.

“Non-Firm Delivery Obligation” means the obligation to deliver gas on a reasonable endeavours basis or on a basis which permits the delivery to be interrupted by the Seller in circumstances other than those specified.

“OCGT Commencement Date” means the date referred to in clause 5.1.

“OCGT Fixed Charge” means the charge referred to in clause 8.2(a).

“OCGT Maximum Daily Quantity” means a specified quantity.

“OCGT Supply Period” means the period commencing on the OCGT Commencement Date and ending on the CCGT Commencement Date.

“OCGT Unauthorised Off-take Charge” means the charge referred to in clause 5.6

“OCGT Variable Charge” means the charge referred to in clause 8.2(b).

“OCGT Variable Charge Rate” means the rate referred to in clause 8.2(b).

“Off-take Restriction Notice” means a notice issued by the Seller under clause 7.2.

“Permitted Chargee” means, in respect of the Buyer, a person of Investment Grade who provides financial accommodation (**“financier”**) to the Buyer which is secured over the property, assets and undertaking of the Buyer or the Power Plant. It includes any person who takes and holds such security for the benefit of any financier and any person claiming through that person or under the security (including any person acquiring those rights or any of them upon realisation of the security) who in each case, enters into, or authorises the entry into of, a Permitted Chargee Deed.

Permitted Chargee Deed means a deed between the Buyer, a Permitted Chargee and the Seller on terms agreed by the Parties, acting reasonably, which terms will include:

- (a) Seller to notify defaults under this agreement to any Permitted Chargee;

- (b) Seller to allow reasonable period for any Permitted Chargee to cure such defaults;
Seller not to terminate this agreement if Buyer's obligations under this agreement are performed; and
- (d) Permitted Chargee to give notice (prior notice if reasonable) to the Seller before enforcing any security interest the subject of that Permitted Chargee Deed against the Power Plant.

"Pipeline Operator" means each person responsible for the operation of all or part of the Pipeline System.

"Pipeline System" means the high pressure steel pipeline and pipeline system for the transportation of gas from Moomba to Adelaide and all related facilities and laterals and includes any modifications or additions thereto and any replacement or substitution of another pipeline system for that pipeline and any duplication of that pipeline (and despite any change in the route of the pipeline from Moomba to Adelaide).

"PJ" means one petajoule.

"Power Plant" means the power plant owned and operated by the Buyer and situated on the Buyer's Site.

"quantity" means the quantity of gas measured by Gross Heating Value.

"Quarter" means a period of three months beginning on 1 January, 1 April, 1 July or 1 October.

"Related Body Corporate" has the meaning given to that term in the Corporations Law.

"Shortfall Restriction Notice" means a notice issued by the Seller under clause 15.2.

"TJ" means 1 terajoule.

"Unauthorised Off-take Charge Rate" means the charge rate referred to in clauses 5.6 and 6.8.

4.2 Part Contract Years

Where it is necessary under this Agreement to make a calculation by reference to part of a Contract Year or to a Contract Year which is less than 12 consecutive months, the part or the number of days in that year (as the case may be) will be the portion that the number of whole days in the relevant period bears to 365 or 366 in a leap year.

5. GAS CONNECTION FACILITIES

The Buyer will, at its cost, procure that the Gas Connection Facilities are constructed and commissioned, and the Metering Equipment is installed and tested, prior to the Commissioning Commencement Date.

6. SALE AND PURCHASE

Subject to the other provisions of this Agreement:

- (a) the Seller agrees to sell and deliver to the Buyer at the Delivery Point the quantities of gas properly nominated by the Buyer in accordance with the terms of this Agreement; and
- (b) the Buyer agrees to take delivery of all gas supplied by the Seller in accordance with the terms of this Agreement.

7. COMMISSIONING

7.1 Commissioning Commencement Date

The Commissioning Commencement Date will be a specified date but:

- (a) the Buyer may by notice to the Seller, postpone the Commissioning Commencement Date by not more than a specified period. A notice issued under this paragraph (a) will only be effective if it is issued by no later than a specified date and specifies the day to which the Commissioning Commencement Date is postponed; and
- (b) the Buyer may, by notice to the Seller, bring forward or postpone the Commissioning Commencement Date to the day specified in that notice, which day may not be a specified period before or after the Commissioning Commencement Date as adjusted under paragraph (a). A notice issued under this paragraph (b) will only be effective if it is issued to the Seller at least a specified period prior to the earlier of the proposed new Commissioning Commencement Date and the then existing Commissioning Commencement Date.

7.2 Commissioning Gas

- (a) During the Commissioning Period, the Seller will use its reasonable endeavours to supply gas at the Delivery Point as and when required by the Buyer for the purpose of commissioning and testing the Power Plant. The maximum quantity of gas which the Seller will be obliged to deliver on a reasonable endeavours basis during the Commissioning Period is a specified quantity in any day and a specified quantity in any hour.
- (b) The Seller is not required to interrupt any of its other gas customers to supply the Buyer's commissioning gas requirements under paragraph (a) above.

8. OCGT SUPPLY PERIOD

8.1 The OCGT Commencement Date

The OCGT Commencement Date is a specified date but:

- (a) the Buyer may by notice to the Seller, postpone the OCGT Commencement Date by not more than a specified period. A notice issued under this paragraph (a) will only be effective if it is issued by no later than a specified date and specifies the day to which the OCGT Commencement Date is postponed; and

- (b) the Buyer may, by notice to the Seller, bring forward or postpone the OCGT Commencement Date to the day specified in the notice, which day may not be a specified period before or after the OCGT Commencement Date as adjusted under paragraph (a). A notice issued under this paragraph (b) will only be effective if it is issued to the Seller at least a specified period prior to the earlier of the proposed new OCGT Commencement Date and the then existing OCGT Commencement Date.

8.2 OCGT Maximum Quantities

The maximum quantity of gas which the Seller is obliged to deliver, and the Buyer is entitled to take, at the Delivery Point during the OCGT Supply Period is:

- (a) on any day, the OCGT Maximum Daily Quantity; and
- (b) in any hour, the Maximum Hourly Quantity.

8.3 Daily Forecast

Before each day during the OCGT Supply Period, the Buyer must notify the Seller of its best estimate of the quantity of gas it requires for delivery in each 30 minutes of that day and the total amount required for each of the following 2 days.

8.4 Daily Off-take Times

Each day during the OCGT Supply Period, the Buyer must notify the Seller of each 30 minute period at that day in which it intends to off-take gas at the Delivery Point (each, a “**Nominated Off-take Period**”), which periods may not in aggregate exceed a specified period.

8.5 Notification of Daily Gas Requirements

In respect of each day during the OCGT Supply Period, the Buyer must:

- (a) give as much notice as is reasonably practicable of its gas requirements for that day; and
- (b) immediately notify the Seller upon it commencing to off-take gas at the Delivery Point on that day, which notification must specify:
 - (i) the time at which the Power Plant is scheduled to commence dispatching electricity; and
 - (ii) its best estimate of the total quantity of gas required and its required rate of delivery.

8.6 OCGT Unauthorised Off-take Charge

If on a day during the OCGT Supply Period the Buyer takes delivery of a quantity of gas:

- (a) outside of a Nominated Off-take Period; or
- (b) within a Nominated Off-take Period but in excess of the Maximum Hourly Quantity or the OCGT Maximum Daily Quantity,

(those quantities being “**OCGT Unauthorised Off-take Gas**”) then an OCGT Unauthorised Off-take Charge will be payable by the Buyer. The OCGT Unauthorised Off-take Charge will be the greater of amounts calculated by reference to two separate formula.

9. CCGT SUPPLY PERIOD

9.1 CCGT Commencement Date

The CCGT Commencement Date will be a specified date but:

- (a) the Buyer may by notice to the Seller, postpone the CCGT Commencement Date by not more than a specified period. A notice issued under this paragraph (a) will only be effective if it is issued by no later than a specified date and specifies the day to which the Commissioning Commencement Date is postponed; and
- (b) the Buyer may, by notice to the Seller, bring forward or postpone the CCGT Commencement Date to the day specified in the notice, which day may not be a specified period before or after the CCGT Commencement Date as adjusted under paragraph (a). Any notice issued under this paragraph (b) will only be effective if it is issued to the Seller at least a specified period prior to the earlier of the proposed new CCGT Commencement Date and the then existing CCGT Commencement Date.

9.2 CCGT Maximum Quantities

Subject to the other provisions of this Agreement, the maximum quantity of gas which the Seller is obliged to deliver, and the Buyer is entitled to take, at the Delivery Point during the CCGT Supply Period is:

- (a) in any Contract Year, the Annual Contract Quantity;
- (b) on any day, the CCGT Maximum Daily Quantity; and
- (c) in any hour, the Maximum Hourly Quantity.

9.3 Take or Pay

- (a) If the quantity of gas taken by the Buyer in a Contract Year falls short of the Minimum Annual Quantity then the Buyer must pay the Seller for the shortfall as if the shortfall had been taken by the Buyer in the last month of that Contract Year. The Buyer will only be relieved of that obligation in the circumstances described in paragraph (b) below.
- (b) The Buyer will be relieved of its obligation to pay for a shortfall under paragraph (a) above to the extent that:
 - (i) the Seller fails to make available for delivery at the Delivery Point the quantities of gas properly nominated by the Buyer and is not excused for that non-delivery under the terms of this Agreement;
 - (ii) the Seller is unable to make available for delivery at the Delivery Point any quantity of gas as a result of a Force Majeure Event or for any other reason for which the Seller is excused under the provisions of this Agreement;

- (iii) the Buyer is restricted from taking the quantities of gas properly nominated by it by reason of the Seller issuing an Off-take Restriction Notice or a Shortfall Restriction Notice; or
- (iv) gas available for delivery does not comply with the Gas Specification and the Buyer has elected not to take delivery of the gas nominated.

There are two preconditions to relief under this paragraph (b). First, the quantity of gas nominated for the day must not be in excess of the CCGT Maximum Daily Quantity prior to it being reduced pursuant to any Off-take Restriction Notice or any Shortfall Restriction Notice. Secondly, the Buyer must have been able to accept the gas nominated if the Seller had been able to deliver it. If these conditions are met then the amount nominated which the Seller has been unable to supply will be added to the Buyer's actual consumption of gas before determining whether any payment is due under paragraph (a) above.

- (c) Any amount of gas which the Buyer has not taken but has paid for under paragraph (a) above in a Contract Year will be treated as “**Banked Gas**”. Banked Gas accumulates from Contract Year to Contract Year. Banked Gas may be taken by the Buyer in any Contract Year once the Buyer has taken the Minimum Annual Quantity for that Contract Year. If the Buyer is entitled to take Banked Gas in a Contract Year then all quantities of gas taken by the Buyer in that year in excess of the Minimum Annual Quantity will be taken to be Banked Gas up to the amount of the Banked Gas to which the Buyer is entitled. No additional charge will be payable for such Banked Gas delivered to the Buyer in any Contract Year.

9.4 Forecasts

- (a) Not less than a specified period prior to the commencement of each Contract Year, the Buyer must notify the Seller of its best estimate of its annual gas requirements for the remaining Contract Years.
- (b) Not less than a specified period prior to the commencement of each Quarter, the Buyer must notify the Seller of its best estimate of its requirements for gas for each month of the succeeding 12 months, specifying for each month its forecast peak requirements for any day.
- (c) Not less than a specified period prior to the commencement of each Contract Year the Buyer must notify the Seller of its best estimate of the quantities of gas it will require for delivery during each month of that Contract Year, specifying for each month its forecast peak and average demands.
- (d) Not less than a specified period and not more than a specified period prior to the start of each month the Buyer must notify the Seller of its best estimate of the quantities of gas it requires for delivery on each day of that month.

9.5 Daily Nominations

Before each day during the CCGT Supply Period, the Buyer must notify the Seller of its nomination of the quantity of gas it requires for delivery on that day and its best estimate of its requirements for each of the following 2 days.

9.6 Changes to Nomination

- (a) The Buyer may by notice to the Seller:
 - (i) at any time before or up until a specified time on a day during the CCGT Supply Period, vary (subject to paragraph (b) below) the quantity nominated by the Buyer for delivery before that day by an amount not greater than a specified amount of that quantity; and
 - (ii) otherwise at any time before or during that day, request the Seller to agree to a variation of its nomination for that day.
- (b) The Seller must use all reasonable endeavours to accept a request made under paragraph (a)(ii) but will not be required to accept the request if to do so would result in it incurring any additional expenditure.
- (c) The Buyer may not require a variation pursuant to paragraph (a) above which will result in the varied nomination exceeding the CCGT Maximum Daily Quantity.
- (d) Upon any variation to the Buyer's nomination being effected, that nomination will be deemed to be varied accordingly.

9.7 Nomination Variation Charge

If the Buyer's nomination is increased or decreased pursuant to clause 6.6(a) by an amount greater than a specified amount of the quantity nominated before the day, then a Nomination Variation Charge will be payable by the Buyer. The Nomination Variation Charge will be calculated by a specified formula.

9.8 CCGT Unauthorised Off-take Charge

If the Buyer takes delivery of a quantity of gas on a day during the CCGT Supply Period which is in excess of a specified percentage of the Buyer's nominated quantity (as varied) for that day (that quantity being "**CCGT Unauthorised Off-take Gas**"), then a CCGT Unauthorised Off-take Charge will be payable by the Buyer. The CCGT Unauthorised Off-take Charge will be the greater of amounts calculated by reference to two separate formula.

10. BASIS OF SUPPLY

10.1 Interruption Rights

The Seller may interrupt or reduce the rate of supply of gas required to be supplied under this Agreement to the extent that the interruption or reduction is required, or occurs:

- (a) to comply with any applicable laws;
- (b) during, or as a result of, a Force Majeure Event;
- (c) due to repairs, maintenance, failure of or alteration to the Pipeline System or the Metering Equipment;

- (d) during periods when the Seller is unable to obtain supplies of gas which the Seller has a contractual entitlement to obtain, except if the failure is due to a default by the Seller under the terms of any gas supply agreement under which it purchases gas;
- (e) during periods when the Pipeline Operator curtails the quantities of gas which the Seller has contracted to have shipped through the Pipeline System, except if that curtailment is due to a default by the Seller under the terms of any applicable gas transportation agreement; or
- (f) due to steps taken by any person in an emergency to protect the operational integrity and safe operation of the Pipeline System or the Metering Equipment.

The Seller will inform the Buyer as soon as practicable whenever it becomes aware that the supply of gas to the Buyer will be interrupted or the rate of supply reduced.

10.2 Off-take Restrictions

If the Seller wishes to interrupt or reduce the rate of supply of gas on a day or in any hour under clause 7.1, it may notify the Buyer that it requires the Buyer to limit its off-take of gas on the nominated day and/or hour to the quantities specified in that notice. Upon receipt of such a notice the Maximum Daily Quantity for that day and the Maximum Hourly Quantity for that hour will be reduced to the quantities specified in the notice.

11. CHARGES

11.1 Commissioning Period Charges

The Buyer must pay a Commissioning Variable Charge to the Seller in respect of gas delivered each month during the Commissioning Period. The Commissioning Variable Charge will be calculated by applying the Commissioning Variable Charge Rate to each GJ of gas supplied to the Buyer by the Seller in the preceding month. At the Base Date, the Commissioning Variable Charge Rate is a specified amount per GJ.

11.2 OCGT Supply Period Charges

- (a) The Buyer must pay the OCGT Fixed Charge to the Seller each month during the OCGT Supply Period. At the Base Date, the OCGT Fixed Charge is a specified amount per month. Part months will be pro rated on the basis of the number of days in the relevant month.
- (b) The Buyer must pay a OCGT Variable Charge to the Seller each month in respect of gas delivered in the preceding month during the OCGT Supply Period. The OCGT Variable Charge will be calculated by applying the OCGT Variable Charge Rate to each GJ of gas supplied to the Buyer by the Seller in the preceding month. At the Base Date, the OCGT Variable Charge Rate is a specified amount per GJ.
- (c) The Buyer must also pay the Seller each month during the OCGT Supply Period any OCGT Unauthorised Off-take Charge incurred in the preceding month.

11.3 CCGT Supply Period Charges

- (a) The Buyer must pay the CCGT Fixed Charge to the Seller each month during the CCGT Supply Period. At the Base Date, the CCGT Fixed Charge is a specified amount per month. Part months will be pro-rated on the basis of the number of days in the relevant month.
- (b) The Buyer must pay a CCGT Variable Charge to the Seller each month in respect of gas delivered in the preceding month during the CCGT Supply Period. The CCGT Variable Charge will be calculated by applying the CCGT Variable Charge Rate to each GJ of gas supplied to the Buyer by the Seller in the preceding month. At the Base Date, the CCGT Variable Charge Rate is a specified amount per GJ.
- (c) The Buyer must also pay to the Seller each month during the CCGT Supply Period any CCGT Unauthorised Off-take Charge or Nomination Variation Charge incurred in the preceding month.

11.4 Government Imposts

- (a) The charges payable for gas under this Agreement have been determined by the Seller having regard to Government Imposts in force at the date of this Agreement. If during the term of this Agreement those Government Imposts are varied or new Government Imposts imposed, with the result that there is an increase in the Seller's direct or indirect liability for Government Imposts attributable, directly or indirectly, to the supply of gas to the Buyer, the Seller will be entitled to vary the variable and fixed charges referred to in clauses 8.1, 8.2 and 8.3 in accordance with paragraph (b) of this clause.
- (b) The Seller will be entitled to apportion its liability arising out of the variation of a Government Impost or the imposition of a new Government Impost between the persons to which it supplies the gas which attracts the additional liability. Any such apportionment must be determined by the Seller on the basis of the Seller's estimate of the quantity of gas purchased by each of those persons from the Seller during the relevant period.

11.5 Charge Rate Escalation

Each of the OCGT Fixed Charge, the CCGT Fixed Charge, the Commissioning Variable Charge Rate, the OCGT Variable Charge Rate, the CCGT Variable Charge Rate, the Unauthorised Off-take Charge Rate and the Nomination Variation Charge Rate will be escalated with effect from each 1 July (commencing in 1999), in accordance with the following formula:

$$P_n = P_{n-1} \left[1 + \left(\frac{CPI_n - CPI_{n-1}}{CPI_{n-1}} \right) \right]$$

Where:

- P_n is the escalated relevant charge or charge rate which is to be applicable as from the day at which the calculation is made;
- P_{n-1} is the relevant charge or charge rate immediately prior to the day at which the calculation is made;
- CPI_n is the CPI for the period ending the 31 December last preceding the 1 July in respect of which the calculation is made;

CPI_{n-1} is the CPI for the period ending on the 31 December occurring 18 months before the 1 July in respect of which the calculation is made; and

CPI is the Consumer Price Index (weighted average eight capital cities, all groups index) published by the Australian Bureau of Statistics.

11.6 Discontinuation of CPI

If the CPI is discontinued or its basis of assessment is changed so that it no longer accurately reflects changes in the prevailing level of prices substantially in the same manner as it did prior to the change in basis, then such other index in substitution for the CPI:

- (a) as may be provided by the Australian Bureau of Statistics; or
- (b) if no index is provided by the Australian Bureau of Statistics, as may be agreed by the parties (who must use their best endeavours to agree upon an index); or
- (c) if no index is provided by the Australian Bureau of Statistics and the parties are unable to agree within 1 month of commencing discussions, as may be provided, at the request of either of the parties, by the President for the time being of the Institute of Actuaries of Australia, or that person's nominee,

will be treated as the CPI for the purposes of this Agreement.

11.7 GST

- (a) Notwithstanding any other provision in this Agreement, if the imposition of a goods and services tax (or any similar tax) ("GST") or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes (including income tax), duties or statutory charges ("Taxes"), the consideration (excluding any GST) payable by the Buyer for any supply made under this agreement will be reduced by the same proportion as the actual total costs of the Seller (including any Taxes but excluding any input GST paid or payable by the Seller) are reduced as a result of the abolition of or reduction in Taxes, whether directly by way of the abolition of or reduction in Taxes paid or payable by the Seller to its suppliers or to any government, or indirectly by way of a reduction in the prices (excluding any GST) charged by the suppliers to the Seller.
- (b) In this Agreement, where a party is required to reimburse the other for any costs or other amount, (the Costs), the Costs are taken to be the actual amount or costs incurred less the amount of any GST input tax credit or similar rebate which can be claimed. Further if the party to be reimbursed is liable to GST by virtue of the receipt of the reimbursed amount, the party reimbursing shall, in addition to the reimbursed amount, pay to the party to be reimbursed an amount equal to the GST incurred by the party to be reimbursed.
- (c) In this Agreement, when determining the amount of any indemnity payment payable, the amount of any liability, cost and or expense incurred by the party to be indemnified means the actual amount incurred less the amount of any GST input tax credit or similar rebate which can be claimed by the party to be indemnified in respect of that liability, cost and or expense. Further, if the party to be indemnified is liable to GST by virtue of the receipt of the indemnity amount, the party indemnifying shall, in addition to the indemnity

amount, pay to the party to be indemnified an amount equal to the GST incurred by the party to be indemnified.

11.8 Credit for Pipeline FM Events.

- (a) If during the OCGT Supply Period or the CCGT Supply Period:
 - (i) a Force Majeure Event is claimed by the Seller, being an event which reduces for more than a specified period the transportation services which the Seller would otherwise have received in the Pipeline System (“**Pipeline FM Event**”); and
 - (ii) as a result of a Pipeline FM Event the Buyer is unable to take delivery of the quantity of gas which it would have taken delivery of during the period in which that Pipeline FM Event subsists,

then the Seller must credit the Buyer with a dollar amount (“**Pipeline FM Credit**”) calculated by reference to a specified formula.

- (b) For the Pipeline FM Credit to be provided, the Buyer must provide the Seller with the Buyer’s reasonable estimate of the Gas Shortfall together with:
 - (i) the calculations made by the Buyer to reach that reasonable estimate; and
 - (ii) details of all evidence relied upon to support that estimate.
- (c) In the event that the Seller disputes the Buyer’s estimate of the Gas Shortfall then either party may refer that dispute to arbitration under clause 17.
- (d) The Pipeline FM Credit must be provided to the Buyer as a credit to:
 - (i) the first invoice issued by the Seller after the Buyer complies with its obligations under clause 8.8(b); or
 - (ii) if a dispute is referred to arbitration under clause 8.8(c) and if the determination of the arbitrator is in favour of the Buyer, the first invoice issued by the Seller after the determination is made,

and each subsequent invoice in respect of a month during which the Pipeline FM Event continues.

12. DELIVERY AND MEASUREMENT

12.1 Delivery of Gas

The Seller will procure the delivery of gas to the Buyer at the Delivery Point.

12.2 Delivery Pressure

The Seller will ensure that gas is delivered to the Buyer at the Delivery Point at a gauge pressure of not less than a specified pressure, provided that the Buyer takes gas at a reasonably steady rate. In the event that compression is required to maintain the pressure above the specified pressure, the Seller will not be responsible for any compression costs.

12.3 Title to Gas

The Seller must pass to the Buyer unencumbered title to all gas delivered to the Buyer at the Delivery Point. Responsibility for, and risk in respect of, all gas delivered to the Buyer passes to the Buyer at the Delivery Point.

12.4 Access to Buyer's Site

The Seller and its authorised servants, agents and contractors will be entitled to enter the Buyer's Site at all reasonable times by giving a reasonable period of notice to the Buyer for any purpose incidental to the fulfillment of the Seller's obligations under this Agreement.

12.5 Maintenance of Metering Equipment

The Seller will, at the Buyer's cost, ensure that the Metering Equipment is operated and maintained in accordance with all applicable laws and industry standards and practices.

12.6 Measurement of Gas

The quantity and quality of gas delivered to the Buyer under this Agreement will be measured by the Metering Equipment and the quantity of gas so measured will be corrected to standard pressure and temperature. The quantity of gas delivered to the Buyer will be expressed as the amount of heat it produces in megajoules using the following formula:

$$\text{Number of megajoules} = GV \times HV$$

where:

GV is the corrected gas quantity in standard cubic metres as measured by the Metering Equipment; and

HV is, in relation to the relevant period of time, the average of the Gross Heating Values of gas in megajoules per cubic metre which are recorded by the Seller for that period.

12.7 Testing Metering Equipment

The Seller will ensure that the Metering Equipment is tested for accuracy once each Contract Year and will invite the Buyer to have a representative present at each test. The Buyer will meet the cost of each of those tests. If the Buyer requires the Seller to conduct additional tests of the Metering Equipment, the Seller will use its reasonable endeavours to arrange for such tests to be undertaken. If the result of any additional test indicates that the Metering Equipment is accurate within the tolerances specified, the additional test must be paid for by the Buyer, otherwise the Seller will meet the cost of the additional test.

12.8 Measurement Discrepancies

- (a) If a test of the Metering Equipment indicates that the Metering Equipment is operating:
 - (i) outside of the tolerances specified then the Seller will adjust the Charges for gas supplied during the period during which the Metering Equipment was known to be inaccurate or if that period is not known, then for such period as the Seller estimates on a reasonable basis to be the period during which the Metering

Equipment was recording inaccurately. The adjustment will be based on quantities of gas delivered during a comparable period when the Metering Equipment was accurate; or

- (ii) within the tolerances specified, there will be no adjustment to the charges for gas supplied up to the date of the test.
- (b) For the avoidance of doubt, an adjustment made pursuant to paragraph (a) will not result in an OCGT or CCGT Unauthorised Off-take Charge being incurred or required to be refunded.

12.9 Metering Equipment Malfunctions

During any period the Metering Equipment fails to provide the Seller with accurate details of the quantity of gas delivered to the Buyer, the quantity delivered for that period may be based on estimates made by the Seller in good faith based on available information and the Buyer's usage history.

12.10 No Tampering by Buyer

The Buyer must not tamper with, adjust, disconnect, by-pass or interfere with the Metering Equipment.

12.11 Records

The Seller must preserve all records and information relating to the measurement of gas delivered to the Buyer at the Delivery Point for a period of not less than three years from the time the records and information were created. The Seller must make those records and information available for inspection by the Buyer upon request.

13. INVOICES AND PAYMENT

13.1 Invoices

- (a) The Seller will, by the 11th day of each month (or such other date as the parties may agree), furnish the Buyer with an invoice for all charges payable under this Agreement in respect of that month, or the preceding month, as applicable.
- (b) Each invoice will itemise each charge which is payable by the Buyer under this Agreement for the relevant month as well as the quantity of gas measured as having been delivered to the Buyer during the relevant month and any credit under clause 8.8.

13.2 Payment Terms

All amounts invoiced to the Buyer under this Agreement must be paid by the 18th day of the month in which the relevant invoice was received.

13.3 Adjustments

In the event that an error is discovered in the amount shown in any invoice issued under this clause 10, an adjustment to compensate for such error will be effected on the next invoice issued under this clause 10 or paid within 30 days of ascertainment

of the error. However no party will be entitled to rectify errors discovered more than 24 months after the relevant invoice was rendered.

13.4 Disputes

In the event of a bona fide dispute arising on the correct amount owing under any invoice issued under this clause 10, the Buyer must pay the amount not in dispute. Any moneys in dispute, and subsequently found to be payable, will be due and payable 14 days after the reconciliation of the difference between the parties with interest at the Interest Rate calculated from the time the money would have been paid had there been no dispute.

13.5 Late Payments

If either the Buyer or the Seller fails to pay an amount due by it under this Agreement by the due date then it must pay interest at the Default Rate on the amount overdue compounding daily from its due date until the date of actual payment.

14. GAS QUALITY

14.1 Gas Specifications

The Seller will ensure that all gas delivered to the Buyer at the Delivery Point meets the specified Gas Specification.

14.2 Failure to Meet Specifications

The Seller will notify the Buyer immediately that it becomes aware that gas delivered at the Delivery Point does not, or will not, comply with the Gas Specification. That notification must also describe the nature of the non-compliance and state the Seller's estimate of the likely duration of the non-compliance.

14.3 Taking Off-Specification Gas

- (a) Once the Buyer becomes aware that gas nominated by it for delivery at the Delivery Point does not, or will not, meet the Gas Specification it may elect to cease taking delivery of that gas. In the absence of such an election the Buyer will remain obliged to take delivery of that gas.
- (b) Any election by the Buyer to cease taking delivery of gas will apply until the Seller notifies the Buyer that gas to be delivered at the Delivery Point will comply with the Gas Specification.
- (c) If after becoming aware that gas to be delivered at the Delivery Point will not meet the Gas Specification the Buyer does not elect to cease taking delivery of that gas, the Seller will have no liability to the Buyer for failing to deliver gas which meets the Gas Specification and the Buyer will be required to pay for all gas delivered to it which does not meet the Gas Specification until such time as the Buyer elects to cease taking delivery of that gas.
- (d) If the Buyer does not elect to cease taking delivery of gas under clause 11.3(a), the Seller will continue to deliver gas even if it does not meet the Gas Specification.

15. WARRANTIES

15.1 No Encumbrances

The Seller warrants to the Buyer that gas delivered to the Buyer at the Delivery Point will be delivered free from any lien, charge, encumbrance or adverse claim of any kind.

15.2 No Implied Terms

To the extent permitted by law all warranties, terms and conditions in relation to the supply of gas and the provision of any other service under this Agreement which may otherwise be implied by use, statute or otherwise are excluded.

16. LIABILITY

16.1 Liability Limited to Direct Losses

- (a) Subject to the remaining provisions of this clause, neither the Seller nor the Buyer will be liable to the other for any loss of use, revenue or profit or for any other special, indirect, incidental, consequential or exemplary damages of any kind, arising from any breach of an obligation under this Agreement, any negligence or duty owed by a party arising out of the respective obligations of the parties under this Agreement or any other cause of action arising out of this Agreement.
- (b) Each party releases and forever discharges the other from all claims, actions, suits and demands whatsoever which any of them have against the other or, but for the presence of this clause, may have in the future, to recover any loss or damage of the type described in paragraph (a) above arising out of or in connection with this Agreement.

16.2 Indemnity

The Buyer must indemnify the Seller and keep the Seller fully indemnified from and against all actions, claims, demands, charges, costs, losses, or expenses of any nature whatsoever and howsoever arising, paid, suffered or incurred by the Seller directly or indirectly as a result of the Buyer taking gas on a day:

- (a) in excess of the Maximum Daily Quantity and/or the Maximum Hourly Quantity (including any variation to those quantities under clause 7.2);
- (b) in excess of the quantity nominated by the Buyer under clauses 6.5 and 6.6 for that day;
- (c) outside of an Nominated Off take Period for that day; or
- (d) when the Buyer knows the gas will not meet the Gas Specification or when the gas has been the subject of a notice pursuant to clause 11.2.

The amount payable pursuant to this clause is reduced by the amount(s) payable pursuant to clause 5.6 or 6.8 as a consequence of taking gas as contemplated by (a), (b) or (c) above.

17. FORCE MAJEURE

17.1 Relief from Obligations

- (a) The Seller and the Buyer will be relieved from performance of an obligation under this Agreement if their ability to perform that obligation is adversely affected by a Force Majeure Event.
- (b) A party will be adversely affected by a Force Majeure Event if the Force Majeure Event directly or indirectly results in the party being unable to perform an obligation either absolutely or without taking steps which are not commercially or economically feasible to the party.
- (c) A party will be relieved of performance to the extent that, and for so long as, the Force Majeure Event is adversely affecting its ability to perform. Thereafter the time for performance of that obligation will be extended by the same period, but in no circumstances will this clause operate to extend the term of this Agreement.
- (d) Despite paragraph (a) above, neither the Buyer nor the Seller will be relieved by a Force Majeure Event of an obligation to pay any sum of money under this Agreement but the Buyer will be entitled to a credit under clause 8.8 where the Seller is affected by a Pipeline FM Event (as defined in clause 8.8).
- (e) No Force Majeure Event affecting the performance of this Agreement by either party will operate to prevent a cause of action arising from and after the expiration of the period of time within which, by the exercise of reasonable diligence and employment of all reasonable means, that party could have remedied the situation preventing its performance.

17.2 Procedure to Claim Relief

Subject to clause 14.3, if a party wishes to claim relief from an obligation it must:

- (a) notify the other party as soon as possible of:
 - (i) details of the Force Majeure Event;
 - (ii) the date of commencement of the Force Majeure Event and an estimate of the period of time required to enable it to resume full performance of its obligations; and
 - (iii) where possible, the means proposed to be adopted to remedy or abate the Force Majeure Event;
- (b) use all reasonable diligence and employ all reasonable means to remedy or abate the Force Majeure Event as expeditiously as possible but no party will be required to remedy or abate the Force Majeure Event and its consequences by means that in its opinion are not commercially or economically viable;
- (c) resume performance as expeditiously as possible after termination of the Force Majeure Event or after the Force Majeure Event has abated to an extent which permits resumption of performance;
- (d) notify the other party when the Force Majeure Event has terminated or abated to an extent which permits resumption of performance to occur; and

(e) notify the other party when resumption of performance has occurred.

17.3 Limitation on Information Disclosure Obligations

To the extent to which a Force Majeure Event relates to an event which has occurred under, or in connection with, any contract under which the Seller obtains its supplies of gas or haulage entitlements, the Seller's obligation to disclose details of the Force Majeure Event is limited to disclosing the information provided to it by the other parties to those contracts.

18. SHORTFALLS - PRIORITY OF DELIVERIES

18.1 Priority

If on a day the quantity of gas which the Seller has available for supply to all the Seller's gas customers is less than that required to supply the total quantity of gas duly nominated by those customers, then the Seller will deliver gas in a specified priority.

18.2 Shortfall Restriction Notice

If the Seller is required to effect deliveries on a day in accordance with clause 15.1, it must notify the Buyer that it requires the Buyer to limit its off-take of gas on the nominated day to the quantity specified in that notice (which must be the quantity determined in accordance with clause 15.1). Upon receipt of such a notice, the Buyer must limit its off-take of gas on that day to the quantity specified in that notice.

18.3 Seller's Liability Unaffected

The provisions of clause 15 do not relieve the Seller of any of its delivery obligations under this Agreement.

19. GAS ODORISING

The Buyer must either odourise all gas delivered to it under this Agreement in accordance with Regulation 251 of the Regulations under the Petroleum Act, 1940 or obtain an exemption under that Regulation from effecting such odourising.

20. DISPUTE RESOLUTION

20.1 Limitation on Legal Proceedings

Any dispute between the parties in connection with or arising out of this Agreement ("**Dispute**") must be referred to dispute resolution in accordance with this clause and, except to the extent otherwise provided by statute, will not be the subject of legal proceedings.

20.2 Resolution of Disputes between Parties

If a Dispute arises between the parties, a party may give notice to the other party specifying, in reasonable detail, the nature of the Dispute. During the 21 day period following the service of that notice (or such longer period as may be agreed in writing by the parties) the parties must use their best endeavours to resolve the Dispute.

20.3 Reference to Arbitration

If the parties are unable to resolve a Dispute within the time period allowed by clause 17.2, then either party may serve a notice requiring the Dispute be referred to arbitration. The parties must endeavour to agree upon an arbitrator within 7 days of the service of the notice. If the parties are unable to agree upon an arbitrator within this time period, then either party may ask the President for the time being of the Law Society of South Australia to appoint an arbitrator. Immediately upon the appointment of an arbitrator the Dispute will be referred to the arbitrator.

20.4 Qualifications of Arbitrator

An arbitrator must not:

- (a) be an officer or employee, or former officer or employee, of a party or a Related Body Corporate of a party;
- (b) at the time of appointment, have any financial relationship or other direct or indirect association with a party which might jeopardise the arbitrator's impartiality.

20.5 Location and Conduct of Arbitration

Any arbitration pursuant to this clause will be held in Adelaide and will be conducted in accordance with the *Commercial Arbitration Act 1986* (SA).

20.6 Representation

A party may be represented before the arbitrator by a legal practitioner.

20.7 Binding Decision

A decision of an arbitrator will be final and binding on the parties.

20.8 Costs

The costs of the arbitration (including, without limitation, the fees of the arbitrator, the costs of a venue and the costs of any transcript of proceedings) will, unless otherwise ordered by the arbitrator, be borne equally by the parties.

20.9 Arbitration not affect performance of obligations under this Agreement

During the period of any resolution of a Dispute in accordance with this clause, the parties must continue to perform their obligations under this Agreement.

20.10 Interlocutory Relief

Nothing in clause 17 will prevent a party from seeking interlocutory relief from a court.

20.11 Confidentiality of Arbitration

Unless the parties otherwise agree, any arbitration must be conducted in private and the proceedings, all evidence and documents produced in the course of the arbitration and the determination kept confidential to the parties.

21. INSURANCE

21.1 Requirement to take out Insurance

Each party must have in effect or take out, prior to the Commissioning Commencement Date, valid and enforceable insurance policies as specified with a reputable insurer. The insurance policies must comply with the requirements specified.

21.2 Provision of Insurance

A party must upon request provide to the other party a copy of all insurance policies it has obtained in compliance with this clause and evidence as to their currency.

22. RIGHTS ON DEFAULT

22.1 Events of Default

Each of the following events is an Event of Default in relation to a party (“**Defaulting Party**”):

- (a) an Insolvency Event in relation to the Defaulting Party; or
- (b) the Defaulting Party fails to perform in a timely manner an obligation required to be performed by it under this Agreement.

22.2 Notice to a Defaulting Party

If there is an Event of Default the party not in default (“**Non-Defaulting Party**”) will be entitled to notify the Defaulting Party of the Event of Default and require that the default be remedied within 30 days or if it is incapable of remedy, require that the default be compensated by requesting a reasonable compensation be paid to cure the default within 30 days.

22.3 Failing to Remedy Default

If a Defaulting Party does not remedy an Event of Default within the time stipulated in the notice given under clause 19.2, the Non-Defaulting Party may:

- (a) if it is the Buyer, suspend its obligations to make payments to the Seller under this Agreement until the Event of Default has been remedied, or terminate this Agreement; and
- (b) if the Non-Defaulting Party is the Seller, cease supplying gas to the Buyer until the Event of Default has been remedied, or terminate this Agreement.

22.4 Continuation of Payment Obligations

If the Seller elects to cease supplying gas under clause 19.3, the Buyer will not be relieved of any of its obligations due under this Agreement.

22.5 Prior Rights

Termination of this Agreement will not prejudice the rights of either party against the other in relation to things done prior to the date of termination.

22.6 Termination following a Force Majeure Event

If a Force Majeure Event (or series of Force Majeure Events) continues for more than 6 consecutive months then either party may while the event (or events) continue, terminate this Agreement without further liability by giving a notice to that effect to the other party. Any such termination will not prejudice any rights which have accrued prior to the date of termination.

23. CREDIT SUPPORT

23.1 Request for Credit Support

If, at any time, the creditworthiness of the Buyer is, in the reasonable opinion of the Seller, materially weaker than it was as at the latter of the date of this Agreement or the last time credit support was provided pursuant to this clause 20, then the Seller may, by notice in writing, request the Buyer to deliver to the Seller a guarantee or other form of unconditional credit enhancement of the obligations of the Buyer under this Agreement (“**credit support**”):

- (a) in an amount;
- (b) in form and substance; and
- (c) granted by an entity,

reasonably acceptable to the Seller having regard to the obligations of the Buyer under this Agreement as at the date of the request and in the future.

23.2 Dispute over requirement for Credit Support

If the Buyer disputes the need for it to provide credit support to the Seller (either at all or in the manner requested by the Seller) it may give notice to the Seller (“**Credit Dispute Notice**”) within 7 days of receipt of the Seller’s request under clause 20.1 setting out the matters in dispute.

23.3 Dispute Resolution

If the Buyer gives a Credit Dispute Notice under clause 20.2 the matters in dispute will be determined by an expert having an office in Australia selected by the parties or, failing agreement within 2 Business Days of the service of the Credit Dispute Notice, selected by the President for the time being of the Institute of Chartered Accountants (or any successor body) at the request of one of the parties.

23.4 Conduct of expert

- (a) The expert will conduct the expert’s investigation and determination of the dispute in such manner as the expert considers appropriate.
- (b) The parties will give the expert all possible assistance in making his determination including, but not limited to, access to all relevant documents.
- (c) The expert may make such determinations including determinations as to the payment of the expert’s costs, as the expert thinks fit.
- (d) The expert will act as an expert and not as an arbitrator.

23.5 Time for provision of Credit Support

Any Credit Support requested under this clause 20 must be provided:

- (a) if no Credit Dispute Notice is served, within 30 days of a request under clause 20.1; or
- (b) if a Credit Dispute Notice has been served, within 30 days of an expert's determination under clause 20.4 requiring the provision of Credit Support.

24. ASSIGNMENT

24.1 Inurement

This Agreement will be binding upon the successors and permitted assigns of the parties. No assignment by a party of the whole or any of its rights or obligations under this Agreement will be of any effect unless it is in accordance with the provisions of this clause 21.

24.2 Assignment

Subject to clause 21.4, a party may assign the whole or any of its rights and obligations under this Agreement subject to the following conditions:

- (a) the consent of the other party ("**the Remaining Party**") is first obtained, which will not be unreasonably withheld and may not be withheld where the proposed assignee is a reputable and solvent company which has the financial capacity and technical expertise to perform the assigned obligations under this Agreement; and
- (b) the proposed assignee has entered into a valid and effective covenant with the Remaining Party to be bound by all the terms of this Agreement to the extent that they applied to the assignor.

24.3 Change in Control

- (a) A change in control of a party constitutes an assignment and is subject to the provisions of clause 21.2.
- (b) "**Change in control**" means that a change occurs in the person or entity which directly or indirectly:
 - (i) controls the composition of the board of a party; or
 - (ii) is directly or indirectly in a position to cast, or control the casting of, more than one-half of the maximum number of votes that may be cast at a general meeting of a party; or
 - (iii) holds more than one-half of the issued share capital of a party (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital).

24.4 Clause not apply to Sale Process

This clause 21 will not apply to any sale, lease or transfer of the shares or assets of a party which takes place in accordance with the *Electricity Corporations Restructuring and Disposal Bill* (should that Bill be enacted), the *Electricity Corporations Act 1994* or any

other statute or regulation enacted to facilitate the sale, lease or transfer of the shares or assets of either party.

24.5 Security

Despite any other provision of this Agreement, a party may without the consent of the other party for the purposes of securing financial accommodation, mortgage, charge, pledge or assign by way of security its rights under this Agreement provided that the Permitted Chargee enters into a Permitted Chargee Deed (and the Seller agrees to enter into such an agreement on terms reasonably acceptable to it).

24.6 Permitted Disposal

Nothing in this Clause 21 applies to a Permitted Disposal which occurs more than 3 years after the date of this Agreement. A **Permitted Disposal** means:

- (a) a Disposal of any Marketable Securities in the Buyer where:
 - (i) National Power PLC retains a 50.1% interest (direct and indirect) in the ordinary share capital of the Buyer; and
 - (ii) the Buyer retains operational control of the Power Plant and has continuing access to the technical skills and expertise of National Power PLC; or
- (b) the entry into by the Buyer of any partnership or joint venture (or other form of consortium) in relation to the Power Plant where:
 - (i) National Power PLC retains (directly or indirectly) a 50.1% beneficial interest in the Power Plant; and
 - (ii) the Buyer retains operational control of the Power Plant and has continuing access to the technical skills and expertise of National Power PLC.

25. CONFIDENTIALITY

25.1 Confidential Information

The existence of this Agreement, its terms and all information disclosed by the parties to one another under this Agreement or during negotiations preceding this Agreement (“**Confidential Information**”), in whatever form that information was provided, will be treated as and kept confidential by the parties.

25.2 Permitted Disclosure

Confidential Information may only be disclosed by a party receiving that information in the following circumstances:

- (a) to its employees, its professional advisers, bankers, financial advisers, financiers (including a proposed Permitted Chargee) and insurers who require that information for the purpose of carrying out the functions assigned to them by the party;

- (b) with the consent of the party who provided the information;
- (c) where the information was already known to it at the time it received it under this Agreement;
- (d) the information is known publicly other than as a consequence of a breach of clause 22.1 by that party;
- (e) in connection with the proposed sale of its share capital or any relevant part of its business undertaking; or
- (f) when required by law or legally binding order of any court, Government Agency or administrative or judicial body; or
- (g) to any Related Body Corporate.

A party disclosing Confidential Information under paragraphs (a), (e), (f) or (g) above must use its reasonable endeavours to ensure that the persons to whom it discloses that information undertake to keep the information confidential.

This clause 22 survives termination of this Agreement.

26. MISCELLANEOUS TERMS

26.1 Governing Law

This Agreement is governed by the law of South Australia. The parties submit irrevocably and unconditionally to the jurisdiction of the courts of that State and the courts of the Commonwealth of Australia. The parties waive any objection they might have to any action in these courts and to claim that any action in these courts has been brought in an inconvenient forum or to these courts not having jurisdiction.

26.2 No Waiver

If either party fails to insist on strict performance of any of the terms and conditions of this Agreement that failure will not be treated as a waiver of any rights or remedies that party may have in connection with any subsequent non-performance. The right of either party to insist on strict performance of this Agreement will not be affected by any previous waiver or course of dealing.

26.3 Further Assurances

Each party must, at its own expense, do all that is reasonably necessary to give effect to this Agreement.

26.4 Counterparts

This Agreement may be executed in counterparts, each of which will be treated as an original, but which will constitute one and the same instrument.

26.5 Entire Agreement

This Agreement is the entire agreement between the parties as to its subject matter. It supersedes all prior agreements, representations, conduct and understandings. The parties acknowledge that they have not relied on any representation or conduct in

deciding whether to enter into this Agreement, other than as expressly set out in this Agreement.

26.6 Amendments

No amendment of, nor addition to, this Agreement is binding unless it is in writing and executed by the parties to this Agreement.

27. NOTICES

The Agreement contains provisions stipulating how notices and other communications in connection with the Agreement are given and by whom.

ANNEXURE TO GAS SUPPLY AGREEMENT

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Gas Supply Agreement

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4. RETAIL AGREEMENT SUMMARY

1. Description of Parties

The Agreement dated 8 March 1999, is between:

ETSA POWER PTY LTD (ACN 082 928 701) (*Party A*);

AND

NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED (ARBN 086 411 814) (*Party B*).

2. Material Deliberately Excluded from Summary by Reason of Confidentiality

2.1 Schedule to the Master Agreement

- (l) The threshold amount for each of Party A and Party B - Part 1(c).
- (m) The Default Rate margin - Schedule Part 5(k).
- (n) The Non-Default Rate – Schedule Part 5(k).
- (o) The Normal Capacity specified for Party A and Party B (Schedule Part 5(p)).

2.2 Confirmation

- (a) The criteria that must be satisfied to enable Party B to elect to have the Effective Date earlier (Part 1).
- (b) The Cap Price for the relevant Calculation Periods (Part 1).
- (c) The Floor Price for the relevant Calculation Periods (Part 1).
- (d) The threshold amount which must be met before it is determined that a Force Majeure Event is recognised for Party B in the context of a failure by Terra Gas Trader as an external fuel supplier (Part 5).
- (e) The normal capacity of Party B if the Force Majeure Event is a failure of Terra Gas Trader as an external fuel supplier (Part 5).
- (f) The formula by which the normal capacity of Party A is determined in the context of supply to non-contestable customers (Part 5).
- (g) Specification of the fees relevant to the change in taxes and the imposts provision (Part 6).

3. List of Contents

The Retail Agreement does not include a table of contents.

4. Structure of Agreement

The Agreement comprises:

- the ISDA Master Agreement (Multicurrency-Cross Border 1992 Version);
- an ISDA Schedule to the Master Agreement;
- the June 1997 Australian Addendum No. 13 Electricity Transactions; and
- a confirmation.

The Master Agreement and the Addendum take the form of a standard document. They are annexed in their entirety.

The ISDA Schedule also takes the form of a standard document, though completed by filling in the appropriate details. The form of the ISDA Schedule is also attached and a summary of the information contained within it appears below.

The Schedule and Addendum have the effect of modifying the operation of the Master Agreement. Those three components then form the basis upon which parties to the arrangements may conduct particular transactions. Each transaction is typically documented by a confirmation. In this case there is but one transaction and hence only one confirmation.

Below is a summary of that confirmation.

5. Summary of Schedule to Master Agreement

Annexure 4 is a summary of the Schedule to the Master Agreement.

6. Summary of Confirmation

Annexure 5 is a summary of the relevant confirmation.

ANNEXURE 1 TO RETAIL AGREEMENT SUMMARY

ISDA Master Agreement

ISDA[®]

International Swap Dealers Association, Inc.

MASTER AGREEMENT

dated as of

..... and

have entered and/or anticipate entering into one or more transactions (each a "Transaction") that are or will be governed by this Master Agreement, which includes the schedule (the "Schedule"), and the documents and other confirming evidence (each a "Confirmation") exchanged between the parties confirming those Transactions.

Accordingly, the parties agree as follows:—

1. Interpretation

(a) *Definitions.* The terms defined in Section 14 and in the Schedule will have the meanings therein specified for the purpose of this Master Agreement.

(b) *Inconsistency.* In the event of any inconsistency between the provisions of the Schedule and the other provisions of this Master Agreement, the Schedule will prevail. In the event of any inconsistency between the provisions of any Confirmation and this Master Agreement (including the Schedule), such Confirmation will prevail for the purpose of the relevant Transaction.

(c) *Single Agreement.* All Transactions are entered into in reliance on the fact that this Master Agreement and all Confirmations form a single agreement between the parties (collectively referred to as this "Agreement"), and the parties would not otherwise enter into any Transactions.

2. Obligations

(a) *General Conditions.*

(i) Each party will make each payment or delivery specified in each Confirmation to be made by it, subject to the other provisions of this Agreement.

(ii) Payments under this Agreement will be made on the due date for value on that date in the place of the account specified in the relevant Confirmation or otherwise pursuant to this Agreement, in freely transferable funds and in the manner customary for payments in the required currency. Where settlement is by delivery (that is, other than by payment), such delivery will be made for receipt on the due date in the manner customary for the relevant obligation unless otherwise specified in the relevant Confirmation or elsewhere in this Agreement.

(iii) Each obligation of each party under Section 2(a)(i) is subject to (1) the condition precedent that no Event of Default or Potential Event of Default with respect to the other party has occurred and is continuing, (2) the condition precedent that no Early Termination Date in respect of the relevant Transaction has occurred or been effectively designated and (3) each other applicable condition precedent specified in this Agreement.

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(b) *Change of Account.* Either party may change its account for receiving a payment or delivery by giving notice to the other party at least five Local Business Days prior to the scheduled date for the payment or delivery to which such change applies unless such other party gives timely notice of a reasonable objection to such change.

(c) *Netting.* If on any date amounts would otherwise be payable:—

- (i) in the same currency; and
- (ii) in respect of the same Transaction,

by each party to the other, then, on such date, each party's obligation to make payment of any such amount will be automatically satisfied and discharged and, if the aggregate amount that would otherwise have been payable by one party exceeds the aggregate amount that would otherwise have been payable by the other party, replaced by an obligation upon the party by whom the larger aggregate amount would have been payable to pay to the other party the excess of the larger aggregate amount over the smaller aggregate amount.

The parties may elect in respect of two or more Transactions that a net amount will be determined in respect of all amounts payable on the same date in the same currency in respect of such Transactions, regardless of whether such amounts are payable in respect of the same Transaction. The election may be made in the Schedule or a Confirmation by specifying that subparagraph (ii) above will not apply to the Transactions identified as being subject to the election, together with the starting date (in which case subparagraph (ii) above will not, or will cease to, apply to such Transactions from such date). This election may be made separately for different groups of Transactions and will apply separately to each pairing of Offices through which the parties make and receive payments or deliveries.

(d) *Deduction or Withholding for Tax.*

(i) *Gross-Up.* All payments under this Agreement will be made without any deduction or withholding for or on account of any Tax unless such deduction or withholding is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, then in effect. If a party is so required to deduct or withhold, then that party ("X") will:—

- (1) promptly notify the other party ("Y") of such requirement;
- (2) pay to the relevant authorities the full amount required to be deducted or withheld (including the full amount required to be deducted or withheld from any additional amount paid by X to Y under this Section 2(d)) promptly upon the earlier of determining that such deduction or withholding is required or receiving notice that such amount has been assessed against Y;
- (3) promptly forward to Y an official receipt (or a certified copy), or other documentation reasonably acceptable to Y, evidencing such payment to such authorities; and
- (4) if such Tax is an Indemnifiable Tax, pay to Y, in addition to the payment to which Y is otherwise entitled under this Agreement, such additional amount as is necessary to ensure that the net amount actually received by Y (free and clear of Indemnifiable Taxes, whether assessed against X or Y) will equal the full amount Y would have received had no such deduction or withholding been required. However, X will not be required to pay any additional amount to Y to the extent that it would not be required to be paid but for:—

(A) the failure by Y to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d); or

(B) the failure of a representation made by Y pursuant to Section 3(f) to be accurate and true unless such failure would not have occurred but for (I) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (II) a Change in Tax Law.

(ii) **Liability.** If:—

- (1) X is required by any applicable law, as modified by the practice of any relevant governmental revenue authority, to make any deduction or withholding in respect of which X would not be required to pay an additional amount to Y under Section 2(d)(i)(4);
- (2) X does not so deduct or withhold; and
- (3) a liability resulting from such Tax is assessed directly against X,

then, except to the extent Y has satisfied or then satisfies the liability resulting from such Tax, Y will promptly pay to X the amount of such liability (including any related liability for interest, but including any related liability for penalties only if Y has failed to comply with or perform any agreement contained in Section 4(a)(i), 4(a)(iii) or 4(d)).

(e) **Default Interest; Other Amounts.** Prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party that defaults in the performance of any payment obligation will, to the extent permitted by law and subject to Section 6(c), be required to pay interest (before as well as after judgment) on the overdue amount to the other party on demand in the same currency as such overdue amount, for the period from (and including) the original due date for payment to (but excluding) the date of actual payment, at the Default Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed. If, prior to the occurrence or effective designation of an Early Termination Date in respect of the relevant Transaction, a party defaults in the performance of any obligation required to be settled by delivery, it will compensate the other party on demand if and to the extent provided for in the relevant Confirmation or elsewhere in this Agreement.

3. Representations

Each party represents to the other party (which representations will be deemed to be repeated by each party on each date on which a Transaction is entered into and, in the case of the representations in Section 3(f), at all times until the termination of this Agreement) that:—

(a) **Basic Representations.**

(i) **Status.** It is duly organised and validly existing under the laws of the jurisdiction of its organisation or incorporation and, if relevant under such laws, in good standing;

(ii) **Powers.** It has the power to execute this Agreement and any other documentation relating to this Agreement to which it is a party, to deliver this Agreement and any other documentation relating to this Agreement that it is required by this Agreement to deliver and to perform its obligations under this Agreement and any obligations it has under any Credit Support Document to which it is a party and has taken all necessary action to authorise such execution, delivery and performance;

(iii) **No Violation or Conflict.** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents, any order or judgment of any court or other agency of government applicable to it or any of its assets or any contractual restriction binding on or affecting it or any of its assets;

(iv) **Consents.** All governmental and other consents that are required to have been obtained by it with respect to this Agreement or any Credit Support Document to which it is a party have been obtained and are in full force and effect and all conditions of any such consents have been complied with; and

(v) **Obligations Binding.** Its obligations under this Agreement and any Credit Support Document to which it is a party constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms (subject to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)).

(b) **Absence of Certain Events.** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Agreement or any Credit Support Document to which it is a party.

(c) **Absence of Litigation.** There is not pending or, to its knowledge, threatened against it or any of its Affiliates any action, suit or proceeding at law or in equity or before any court, tribunal, governmental body, agency or official or any arbitrator that is likely to affect the legality, validity or enforceability against it of this Agreement or any Credit Support Document to which it is a party or its ability to perform its obligations under this Agreement or such Credit Support Document.

(d) **Accuracy of Specified Information.** All applicable information that is furnished in writing by or on behalf of it to the other party and is identified for the purpose of this Section 3(d) in the Schedule is, as of the date of the information, true, accurate and complete in every material respect.

(e) **Payer Tax Representation.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(e) is accurate and true.

(f) **Payee Tax Representations.** Each representation specified in the Schedule as being made by it for the purpose of this Section 3(f) is accurate and true.

4. Agreements

Each party agrees with the other that, so long as either party has or may have any obligation under this Agreement or under any Credit Support Document to which it is a party:—

(a) **Furnish Specified Information.** It will deliver to the other party or, in certain cases under subparagraph (iii) below, to such government or taxing authority as the other party reasonably directs:—

(i) any forms, documents or certificates relating to taxation specified in the Schedule or any Confirmation;

(ii) any other documents specified in the Schedule or any Confirmation; and

(iii) upon reasonable demand by such other party, any form or document that may be required or reasonably requested in writing in order to allow such other party or its Credit Support Provider to make a payment under this Agreement or any applicable Credit Support Document without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate (so long as the completion, execution or submission of such form or document would not materially prejudice the legal or commercial position of the party in receipt of such demand), with any such form or document to be accurate and completed in a manner reasonably satisfactory to such other party and to be executed and to be delivered with any reasonably required certification,

in each case by the date specified in the Schedule or such Confirmation or, if none is specified, as soon as reasonably practicable.

(b) **Maintain Authorisations.** It will use all reasonable efforts to maintain in full force and effect all consents of any governmental or other authority that are required to be obtained by it with respect to this Agreement or any Credit Support Document to which it is a party and will use all reasonable efforts to obtain any that may become necessary in the future.

(c) **Comply with Laws.** It will comply in all material respects with all applicable laws and orders to which it may be subject if failure so to comply would materially impair its ability to perform its obligations under this Agreement or any Credit Support Document to which it is a party.

(d) **Tax Agreement.** It will give notice of any failure of a representation made by it under Section 3(f) to be accurate and true promptly upon learning of such failure.

(e) **Payment of Stamp Tax.** Subject to Section 11, it will pay any Stamp Tax levied or imposed upon it or in respect of its execution or performance of this Agreement by a jurisdiction in which it is incorporated,

organised, managed and controlled, or considered to have its seat, or in which a branch or office through which it is acting for the purpose of this Agreement is located ("Stamp Tax Jurisdiction") and will indemnify the other party against any Stamp Tax levied or imposed upon the other party or in respect of the other party's execution or performance of this Agreement by any such Stamp Tax Jurisdiction which is not also a Stamp Tax Jurisdiction with respect to the other party.

5. Events of Default and Termination Events

(a) *Events of Default.* The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any of the following events constitutes an event of default (an "Event of Default") with respect to such party:—

(i) *Failure to Pay or Deliver.* Failure by the party to make, when due, any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) required to be made by it if such failure is not remedied on or before the third Local Business Day after notice of such failure is given to the party;

(ii) *Breach of Agreement.* Failure by the party to comply with or perform any agreement or obligation (other than an obligation to make any payment under this Agreement or delivery under Section 2(a)(i) or 2(e) or to give notice of a Termination Event or any agreement or obligation under Section 4(a)(i), 4(a)(iii) or 4(d)) to be complied with or performed by the party in accordance with this Agreement if such failure is not remedied on or before the thirtieth day after notice of such failure is given to the party;

(iii) *Credit Support Default.*

(1) Failure by the party or any Credit Support Provider of such party to comply with or perform any agreement or obligation to be complied with or performed by it in accordance with any Credit Support Document if such failure is continuing after any applicable grace period has elapsed;

(2) the expiration or termination of such Credit Support Document or the failing or ceasing of such Credit Support Document to be in full force and effect for the purpose of this Agreement (in either case other than in accordance with its terms) prior to the satisfaction of all obligations of such party under each Transaction to which such Credit Support Document relates without the written consent of the other party; or

(3) the party or such Credit Support Provider disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, such Credit Support Document;

(iv) *Misrepresentation.* A representation (other than a representation under Section 3(e) or (f)) made or repeated or deemed to have been made or repeated by the party or any Credit Support Provider of such party in this Agreement or any Credit Support Document proves to have been incorrect or misleading in any material respect when made or repeated or deemed to have been made or repeated;

(v) *Default under Specified Transaction.* The party, any Credit Support Provider of such party or any applicable Specified Entity of such party (1) defaults under a Specified Transaction and, after giving effect to any applicable notice requirement or grace period, there occurs a liquidation of, an acceleration of obligations under, or an early termination of, that Specified Transaction, (2) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery or exchange date of, or any payment on early termination of, a Specified Transaction (or such default continues for at least three Local Business Days if there is no applicable notice requirement or grace period) or (3) disaffirms, disclaims, repudiates or rejects, in whole or in part, a Specified Transaction (or such action is taken by any person or entity appointed or empowered to operate it or act on its behalf);

(vi) *Cross Default.* If "Cross Default" is specified in the Schedule as applying to the party, the occurrence or existence of (1) a default, event of default or other similar condition or event (however

described) in respect of such party, any Credit Support Provider of such party or any applicable Specified Entity of such party under one or more agreements or instruments relating to Specified Indebtedness of any of them (individually or collectively) in an aggregate amount of not less than the applicable Threshold Amount (as specified in the Schedule) which has resulted in such Specified Indebtedness becoming, or becoming capable at such time of being declared, due and payable under such agreements or instruments, before it would otherwise have been due and payable or (2) a default by such party, such Credit Support Provider or such Specified Entity (individually or collectively) in making one or more payments on the due date thereof in an aggregate amount of not less than the applicable Threshold Amount under such agreements or instruments (after giving effect to any applicable notice requirement or grace period);

(vii) **Bankruptcy.** The party, any Credit Support Provider of such party or any applicable Specified Entity of such party:—

(1) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (2) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (3) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (4) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (A) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (B) is not dismissed, discharged, stayed or restrained in each case within 30 days of the institution or presentation thereof; (5) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (6) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (7) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within 30 days thereafter; (8) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (1) to (7) (inclusive); or (9) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts; or

(viii) **Merger Without Assumption.** The party or any Credit Support Provider of such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer:—

(1) the resulting, surviving or transferee entity fails to assume all the obligations of such party or such Credit Support Provider under this Agreement or any Credit Support Document to which it or its predecessor was a party by operation of law or pursuant to an agreement reasonably satisfactory to the other party to this Agreement; or

(2) the benefits of any Credit Support Document fail to extend (without the consent of the other party) to the performance by such resulting, surviving or transferee entity of its obligations under this Agreement.

(b) **Termination Events.** The occurrence at any time with respect to a party or, if applicable, any Credit Support Provider of such party or any Specified Entity of such party of any event specified below constitutes an Illegality if the event is specified in (i) below, a Tax Event if the event is specified in (ii) below or a Tax Event Upon Merger if the event is specified in (iii) below, and, if specified to be applicable, a Credit Event

Upon Merger if the event is specified pursuant to (iv) below or an Additional Termination Event if the event is specified pursuant to (v) below:—

(i) **Illegality.** Due to the adoption of, or any change in, any applicable law after the date on which a Transaction is entered into, or due to the promulgation of, or any change in, the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any applicable law after such date, it becomes unlawful (other than as a result of a breach by the party of Section 4(b)) for such party (which will be the Affected Party):—

(1) to perform any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of such Transaction or to comply with any other material provision of this Agreement relating to such Transaction; or

(2) to perform, or for any Credit Support Provider of such party to perform, any contingent or other obligation which the party (or such Credit Support Provider) has under any Credit Support Document relating to such Transaction;

(ii) **Tax Event.** Due to (x) any action taken by a taxing authority, or brought in a court of competent jurisdiction, on or after the date on which a Transaction is entered into (regardless of whether such action is taken or brought with respect to a party to this Agreement) or (y) a Change in Tax Law, the party (which will be the Affected Party) will, or there is a substantial likelihood that it will, on the next succeeding Scheduled Payment Date (1) be required to pay to the other party an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount is required to be deducted or withheld for or on account of a Tax (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) and no additional amount is required to be paid in respect of such Tax under Section 2(d)(i)(4) (other than by reason of Section 2(d)(i)(4)(A) or (B));

(iii) **Tax Event Upon Merger.** The party (the “Burdened Party”) on the next succeeding Scheduled Payment Date will either (1) be required to pay an additional amount in respect of an Indemnifiable Tax under Section 2(d)(i)(4) (except in respect of interest under Section 2(e), 6(d)(ii) or 6(e)) or (2) receive a payment from which an amount has been deducted or withheld for or on account of any Indemnifiable Tax in respect of which the other party is not required to pay an additional amount (other than by reason of Section 2(d)(i)(4)(A) or (B)), in either case as a result of a party consolidating or amalgamating with, or merging with or into, or transferring all or substantially all its assets to, another entity (which will be the Affected Party) where such action does not constitute an event described in Section 5(a)(viii);

(iv) **Credit Event Upon Merger.** If “Credit Event Upon Merger” is specified in the Schedule as applying to the party, such party (“X”), any Credit Support Provider of X or any applicable Specified Entity of X consolidates or amalgamates with, or merges with or into, or transfers all or substantially all its assets to, another entity and such action does not constitute an event described in Section 5(a)(viii) but the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of X, such Credit Support Provider or such Specified Entity, as the case may be, immediately prior to such action (and, in such event, X or its successor or transferee, as appropriate, will be the Affected Party); or

(v) **Additional Termination Event.** If any “Additional Termination Event” is specified in the Schedule or any Confirmation as applying, the occurrence of such event (and, in such event, the Affected Party or Affected Parties shall be as specified for such Additional Termination Event in the Schedule or such Confirmation).

(c) **Event of Default and Illegality.** If an event or circumstance which would otherwise constitute or give rise to an Event of Default also constitutes an Illegality, it will be treated as an Illegality and will not constitute an Event of Default.

6. Early Termination

(a) **Right to Terminate Following Event of Default.** If at any time an Event of Default with respect to a party (the "Defaulting Party") has occurred and is then continuing, the other party (the "Non-defaulting Party") may, by not more than 20 days notice to the Defaulting Party specifying the relevant Event of Default, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all outstanding Transactions. If, however, "Automatic Early Termination" is specified in the Schedule as applying to a party, then an Early Termination Date in respect of all outstanding Transactions will occur immediately upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(1), (3), (5), (6) or, to the extent analogous thereto, (8), and as of the time immediately preceding the institution of the relevant proceeding or the presentation of the relevant petition upon the occurrence with respect to such party of an Event of Default specified in Section 5(a)(vii)(4) or, to the extent analogous thereto, (8).

(b) **Right to Terminate Following Termination Event.**

(i) **Notice.** If a Termination Event occurs, an Affected Party will, promptly upon becoming aware of it, notify the other party, specifying the nature of that Termination Event and each Affected Transaction and will also give such other information about that Termination Event as the other party may reasonably require.

(ii) **Transfer to Avoid Termination Event.** If either an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there is only one Affected Party, or if a Tax Event Upon Merger occurs and the Burdened Party is the Affected Party, the Affected Party will, as a condition to its right to designate an Early Termination Date under Section 6(b)(iv), use all reasonable efforts (which will not require such party to incur a loss, excluding immaterial, incidental expenses) to transfer within 20 days after it gives notice under Section 6(b)(i) all its rights and obligations under this Agreement in respect of the Affected Transactions to another of its Offices or Affiliates so that such Termination Event ceases to exist.

If the Affected Party is not able to make such a transfer it will give notice to the other party to that effect within such 20 day period, whereupon the other party may effect such a transfer within 30 days after the notice is given under Section 6(b)(i).

Any such transfer by a party under this Section 6(b)(ii) will be subject to and conditional upon the prior written consent of the other party, which consent will not be withheld if such other party's policies in effect at such time would permit it to enter into transactions with the transferee on the terms proposed.

(iii) **Two Affected Parties.** If an Illegality under Section 5(b)(i)(1) or a Tax Event occurs and there are two Affected Parties, each party will use all reasonable efforts to reach agreement within 30 days after notice thereof is given under Section 6(b)(i) on action to avoid that Termination Event.

(iv) **Right to Terminate.** If:—

(1) a transfer under Section 6(b)(ii) or an agreement under Section 6(b)(iii), as the case may be, has not been effected with respect to all Affected Transactions within 30 days after an Affected Party gives notice under Section 6(b)(i); or

(2) an Illegality under Section 5(b)(i)(2), a Credit Event Upon Merger or an Additional Termination Event occurs, or a Tax Event Upon Merger occurs and the Burdened Party is not the Affected Party,

either party in the case of an Illegality, the Burdened Party in the case of a Tax Event Upon Merger, any Affected Party in the case of a Tax Event or an Additional Termination Event if there is more than one Affected Party, or the party which is not the Affected Party in the case of a Credit Event Upon Merger or an Additional Termination Event if there is only one Affected Party may, by not more than 20 days notice to the other party and provided that the relevant Termination Event is then

continuing, designate a day not earlier than the day such notice is effective as an Early Termination Date in respect of all Affected Transactions.

(c) ***Effect of Designation.***

(i) If notice designating an Early Termination Date is given under Section 6(a) or (b), the Early Termination Date will occur on the date so designated, whether or not the relevant Event of Default or Termination Event is then continuing.

(ii) Upon the occurrence or effective designation of an Early Termination Date, no further payments or deliveries under Section 2(a)(i) or 2(e) in respect of the Terminated Transactions will be required to be made, but without prejudice to the other provisions of this Agreement. The amount, if any, payable in respect of an Early Termination Date shall be determined pursuant to Section 6(e).

(d) ***Calculations.***

(i) ***Statement.*** On or as soon as reasonably practicable following the occurrence of an Early Termination Date, each party will make the calculations on its part, if any, contemplated by Section 6(e) and will provide to the other party a statement (1) showing, in reasonable detail, such calculations (including all relevant quotations and specifying any amount payable under Section 6(e)) and (2) giving details of the relevant account to which any amount payable to it is to be paid. In the absence of written confirmation from the source of a quotation obtained in determining a Market Quotation, the records of the party obtaining such quotation will be conclusive evidence of the existence and accuracy of such quotation.

(ii) ***Payment Date.*** An amount calculated as being due in respect of any Early Termination Date under Section 6(e) will be payable on the day that notice of the amount payable is effective (in the case of an Early Termination Date which is designated or occurs as a result of an Event of Default) and on the day which is two Local Business Days after the day on which notice of the amount payable is effective (in the case of an Early Termination Date which is designated as a result of a Termination Event). Such amount will be paid together with (to the extent permitted under applicable law) interest thereon (before as well as after judgment) in the Termination Currency, from (and including) the relevant Early Termination Date to (but excluding) the date such amount is paid, at the Applicable Rate. Such interest will be calculated on the basis of daily compounding and the actual number of days elapsed.

(e) ***Payments on Early Termination.*** If an Early Termination Date occurs, the following provisions shall apply based on the parties' election in the Schedule of a payment measure, either "Market Quotation" or "Loss", and a payment method, either the "First Method" or the "Second Method". If the parties fail to designate a payment measure or payment method in the Schedule, it will be deemed that "Market Quotation" or the "Second Method", as the case may be, shall apply. The amount, if any, payable in respect of an Early Termination Date and determined pursuant to this Section will be subject to any Set-off.

(i) ***Events of Default.*** If the Early Termination Date results from an Event of Default:—

(1) ***First Method and Market Quotation.*** If the First Method and Market Quotation apply, the Defaulting Party will pay to the Non-defaulting Party the excess, if a positive number, of (A) the sum of the Settlement Amount (determined by the Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party over (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party.

(2) ***First Method and Loss.*** If the First Method and Loss apply, the Defaulting Party will pay to the Non-defaulting Party, if a positive number, the Non-defaulting Party's Loss in respect of this Agreement.

(3) ***Second Method and Market Quotation.*** If the Second Method and Market Quotation apply, an amount will be payable equal to (A) the sum of the Settlement Amount (determined by the

Non-defaulting Party) in respect of the Terminated Transactions and the Termination Currency Equivalent of the Unpaid Amounts owing to the Non-defaulting Party less (B) the Termination Currency Equivalent of the Unpaid Amounts owing to the Defaulting Party. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(4) *Second Method and Loss.* If the Second Method and Loss apply, an amount will be payable equal to the Non-defaulting Party's Loss in respect of this Agreement. If that amount is a positive number, the Defaulting Party will pay it to the Non-defaulting Party; if it is a negative number, the Non-defaulting Party will pay the absolute value of that amount to the Defaulting Party.

(ii) *Termination Events.* If the Early Termination Date results from a Termination Event:—

(1) *One Affected Party.* If there is one Affected Party, the amount payable will be determined in accordance with Section 6(e)(i)(3), if Market Quotation applies, or Section 6(e)(i)(4), if Loss applies, except that, in either case, references to the Defaulting Party and to the Non-defaulting Party will be deemed to be references to the Affected Party and the party which is not the Affected Party, respectively, and, if Loss applies and fewer than all the Transactions are being terminated, Loss shall be calculated in respect of all Terminated Transactions.

(2) *Two Affected Parties.* If there are two Affected Parties:—

(A) if Market Quotation applies, each party will determine a Settlement Amount in respect of the Terminated Transactions, and an amount will be payable equal to (I) the sum of (a) one-half of the difference between the Settlement Amount of the party with the higher Settlement Amount ("X") and the Settlement Amount of the party with the lower Settlement Amount ("Y") and (b) the Termination Currency Equivalent of the Unpaid Amounts owing to X less (II) the Termination Currency Equivalent of the Unpaid Amounts owing to Y; and

(B) if Loss applies, each party will determine its Loss in respect of this Agreement (or, if fewer than all the Transactions are being terminated, in respect of all Terminated Transactions) and an amount will be payable equal to one-half of the difference between the Loss of the party with the higher Loss ("X") and the Loss of the party with the lower Loss ("Y").

If the amount payable is a positive number, Y will pay it to X; if it is a negative number, X will pay the absolute value of that amount to Y.

7. Transfer

Subject to Section 6(b)(ii), neither this Agreement nor any interest or obligation in or under this Agreement may be transferred (whether by way of security or otherwise) by either party without the prior written consent of the other party, except that:—

- (a) a party may make such a transfer of this Agreement pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, another entity (but without prejudice to any other right or remedy under this Agreement); and
- (b) a party may make such a transfer of all or any part of its interest in any amount payable to it from a Defaulting Party under Section 6(e).

Any purported transfer that is not in compliance with this Section will be void.

8. Contractual Currency

(a) *Payment in the Contractual Currency.* Each payment under this Agreement will be made in the relevant currency specified in this Agreement for that payment (the "Contractual Currency"). To the extent permitted by applicable law, any obligation to make payments under this Agreement in the Contractual Currency will not be discharged or satisfied by any tender in any currency other than the Contractual Currency, except to the extent such tender results in the actual receipt by the party to which payment is owed, acting in a reasonable manner and in good faith in converting the currency so tendered into the Contractual Currency, of the full amount in the Contractual Currency of all amounts payable in respect of this Agreement. If for any reason the amount in the Contractual Currency so received falls short of the amount in the Contractual Currency payable in respect of this Agreement, the party required to make the payment will, to the extent permitted by applicable law, immediately pay such additional amount in the Contractual Currency as may be necessary to compensate for the shortfall. If for any reason the amount in the Contractual Currency so received exceeds the amount in the Contractual Currency payable in respect of this Agreement, the party receiving the payment will refund promptly the amount of such excess.

(b) *Judgments.* To the extent permitted by applicable law, if any judgment or order expressed in a currency other than the Contractual Currency is rendered (i) for the payment of any amount owing in respect of this Agreement, (ii) for the payment of any amount relating to any early termination in respect of this Agreement or (iii) in respect of a judgment or order of another court for the payment of any amount described in (i) or (ii) above, the party seeking recovery, after recovery in full of the aggregate amount to which such party is entitled pursuant to the judgment or order, will be entitled to receive immediately from the other party the amount of any shortfall of the Contractual Currency received by such party as a consequence of sums paid in such other currency and will refund promptly to the other party any excess of the Contractual Currency received by such party as a consequence of sums paid in such other currency if such shortfall or such excess arises or results from any variation between the rate of exchange at which the Contractual Currency is converted into the currency of the judgment or order for the purposes of such judgment or order and the rate of exchange at which such party is able, acting in a reasonable manner and in good faith in converting the currency received into the Contractual Currency, to purchase the Contractual Currency with the amount of the currency of the judgment or order actually received by such party. The term "rate of exchange" includes, without limitation, any premiums and costs of exchange payable in connection with the purchase of or conversion into the Contractual Currency.

(c) *Separate Indemnities.* To the extent permitted by applicable law, these indemnities constitute separate and independent obligations from the other obligations in this Agreement, will be enforceable as separate and independent causes of action, will apply notwithstanding any indulgence granted by the party to which any payment is owed and will not be affected by judgment being obtained or claim or proof being made for any other sums payable in respect of this Agreement.

(d) *Evidence of Loss.* For the purpose of this Section 8, it will be sufficient for a party to demonstrate that it would have suffered a loss had an actual exchange or purchase been made.

9. Miscellaneous

- (a) *Entire Agreement.* This Agreement constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes all oral communication and prior writings with respect thereto.
- (b) *Amendments.* No amendment, modification or waiver in respect of this Agreement will be effective unless in writing (including a writing evidenced by a facsimile transmission) and executed by each of the parties or confirmed by an exchange of telexes or electronic messages on an electronic messaging system.
- (c) *Survival of Obligations.* Without prejudice to Sections 2(a)(iii) and 6(c)(ii), the obligations of the parties under this Agreement will survive the termination of any Transaction.
- (d) *Remedies Cumulative.* Except as provided in this Agreement, the rights, powers, remedies and privileges provided in this Agreement are cumulative and not exclusive of any rights, powers, remedies and privileges provided by law.
- (e) *Counterparts and Confirmations.*
- (i) This Agreement (and each amendment, modification and waiver in respect of it) may be executed and delivered in counterparts (including by facsimile transmission), each of which will be deemed an original.
 - (ii) The parties intend that they are legally bound by the terms of each Transaction from the moment they agree to those terms (whether orally or otherwise). A Confirmation shall be entered into as soon as practicable and may be executed and delivered in counterparts (including by facsimile transmission) or be created by an exchange of telexes or by an exchange of electronic messages on an electronic messaging system, which in each case will be sufficient for all purposes to evidence a binding supplement to this Agreement. The parties will specify therein or through another effective means that any such counterpart, telex or electronic message constitutes a Confirmation.
- (f) *No Waiver of Rights.* A failure or delay in exercising any right, power or privilege in respect of this Agreement will not be presumed to operate as a waiver, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise, of that right, power or privilege or the exercise of any other right, power or privilege.
- (g) *Headings.* The headings used in this Agreement are for convenience of reference only and are not to affect the construction of or to be taken into consideration in interpreting this Agreement.

10. Offices; Multibranch Parties

- (a) If Section 10(a) is specified in the Schedule as applying, each party that enters into a Transaction through an Office other than its head or home office represents to the other party that, notwithstanding the place of booking office or jurisdiction of incorporation or organisation of such party, the obligations of such party are the same as if it had entered into the Transaction through its head or home office. This representation will be deemed to be repeated by such party on each date on which a Transaction is entered into.
- (b) Neither party may change the Office through which it makes and receives payments or deliveries for the purpose of a Transaction without the prior written consent of the other party.
- (c) If a party is specified as a Multibranch Party in the Schedule, such Multibranch Party may make and receive payments or deliveries under any Transaction through any Office listed in the Schedule, and the Office through which it makes and receives payments or deliveries with respect to a Transaction will be specified in the relevant Confirmation.

11. Expenses

A Defaulting Party will, on demand, indemnify and hold harmless the other party for and against all reasonable out-of-pocket expenses, including legal fees and Stamp Tax, incurred by such other party by reason of the enforcement and protection of its rights under this Agreement or any Credit Support Document

to which the Defaulting Party is a party or by reason of the early termination of any Transaction, including, but not limited to, costs of collection.

12. Notices

(a) **Effectiveness.** Any notice or other communication in respect of this Agreement may be given in any manner set forth below (except that a notice or other communication under Section 5 or 6 may not be given by facsimile transmission or electronic messaging system) to the address or number or in accordance with the electronic messaging system details provided (see the Schedule) and will be deemed effective as indicated:—

- (i) if in writing and delivered in person or by courier, on the date it is delivered;
- (ii) if sent by telex, on the date the recipient's answerback is received;
- (iii) if sent by facsimile transmission, on the date that transmission is received by a responsible employee of the recipient in legible form (it being agreed that the burden of proving receipt will be on the sender and will not be met by a transmission report generated by the sender's facsimile machine);
- (iv) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date that mail is delivered or its delivery is attempted; or
- (v) if sent by electronic messaging system, on the date that electronic message is received,

unless the date of that delivery (or attempted delivery) or that receipt, as applicable, is not a Local Business Day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day, in which case that communication shall be deemed given and effective on the first following day that is a Local Business Day.

(b) **Change of Addresses.** Either party may by notice to the other change the address, telex or facsimile number or electronic messaging system details at which notices or other communications are to be given to it.

13. Governing Law and Jurisdiction

(a) **Governing Law.** This Agreement will be governed by and construed in accordance with the law specified in the Schedule.

(b) **Jurisdiction.** With respect to any suit, action or proceedings relating to this Agreement ("Proceedings"), each party irrevocably:—

- (i) submits to the jurisdiction of the English courts, if this Agreement is expressed to be governed by English law, or to the non-exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan in New York City, if this Agreement is expressed to be governed by the laws of the State of New York; and
- (ii) waives any objection which it may have at any time to the laying of venue of any Proceedings brought in any such court, waives any claim that such Proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such Proceedings, that such court does not have any jurisdiction over such party.

Nothing in this Agreement precludes either party from bringing Proceedings in any other jurisdiction (outside, if this Agreement is expressed to be governed by English law, the Contracting States, as defined in Section 1(3) of the Civil Jurisdiction and Judgments Act 1982 or any modification, extension or re-enactment thereof for the time being in force) nor will the bringing of Proceedings in any one or more jurisdictions preclude the bringing of Proceedings in any other jurisdiction.

(c) **Service of Process.** Each party irrevocably appoints the Process Agent (if any) specified opposite its name in the Schedule to receive, for it and on its behalf, service of process in any Proceedings. If for any

reason any party's Process Agent is unable to act as such, such party will promptly notify the other party and within 30 days appoint a substitute process agent acceptable to the other party. The parties irrevocably consent to service of process given in the manner provided for notices in Section 12. Nothing in this Agreement will affect the right of either party to serve process in any other manner permitted by law.

(d) **Waiver of Immunities.** Each party irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any Proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any Proceedings.

14. Definitions

As used in this Agreement:—

"Additional Termination Event" has the meaning specified in Section 5(b).

"Affected Party" has the meaning specified in Section 5(b).

"Affected Transactions" means (a) with respect to any Termination Event consisting of an Illegality, Tax Event or Tax Event Upon Merger, all Transactions affected by the occurrence of such Termination Event and (b) with respect to any other Termination Event, all Transactions.

"Affiliate" means, subject to the Schedule, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Applicable Rate" means:—

(a) in respect of obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Defaulting Party, the Default Rate;

(b) in respect of an obligation to pay an amount under Section 6(e) of either party from and after the date (determined in accordance with Section 6(d)(ii)) on which that amount is payable, the Default Rate;

(c) in respect of all other obligations payable or deliverable (or which would have been but for Section 2(a)(iii)) by a Non-defaulting Party, the Non-default Rate; and

(d) in all other cases, the Termination Rate.

"Burdened Party" has the meaning specified in Section 5(b).

"Change in Tax Law" means the enactment, promulgation, execution or ratification of, or any change in or amendment to, any law (or in the application or official interpretation of any law) that occurs on or after the date on which the relevant Transaction is entered into.

"consent" includes a consent, approval, action, authorisation, exemption, notice, filing, registration or exchange control consent.

"Credit Event Upon Merger" has the meaning specified in Section 5(b).

"Credit Support Document" means any agreement or instrument that is specified as such in this Agreement.

"Credit Support Provider" has the meaning specified in the Schedule.

"Default Rate" means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the relevant payee (as certified by it) if it were to fund or of funding the relevant amount plus 1% per annum.

“Defaulting Party” has the meaning specified in Section 6(a).

“Early Termination Date” means the date determined in accordance with Section 6(a) or 6(b)(iv).

“Event of Default” has the meaning specified in Section 5(a) and, if applicable, in the Schedule.

“Illegality” has the meaning specified in Section 5(b).

“Indemnifiable Tax” means any Tax other than a Tax that would not be imposed in respect of a payment under this Agreement but for a present or former connection between the jurisdiction of the government or taxation authority imposing such Tax and the recipient of such payment or a person related to such recipient (including, without limitation, a connection arising from such recipient or related person being or having been a citizen or resident of such jurisdiction, or being or having had a permanent establishment or fixed place of business in such jurisdiction, or having or having had a permanent establishment or fixed place of business in such jurisdiction, but excluding a connection arising solely from such recipient or related person having executed, delivered, performed its obligations or received a payment under, or enforced, this Agreement or a Credit Support Document).

“law” includes any treaty, law, rule or regulation (as modified, in the case of tax matters, by the practice of any relevant governmental revenue authority) and **“lawful”** and **“unlawful”** will be construed accordingly.

“Local Business Day” means, subject to the Schedule, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) (a) in relation to any obligation under Section 2(a)(i), in the place(s) specified in the relevant Confirmation or, if not so specified, as otherwise agreed by the parties in writing or determined pursuant to provisions contained, or incorporated by reference, in this Agreement, (b) in relation to any other payment, in the place where the relevant account is located and, if different, in the principal financial centre, if any, of the currency of such payment, (c) in relation to any notice or other communication, including notice contemplated under Section 5(a)(i), in the city specified in the address for notice provided by the recipient and, in the case of a notice contemplated by Section 2(b), in the place where the relevant new account is to be located and (d) in relation to Section 5(a)(v)(2), in the relevant locations for performance with respect to such Specified Transaction.

“Loss” means, with respect to this Agreement or one or more Terminated Transactions, as the case may be, and a party, the Termination Currency Equivalent of an amount that party reasonably determines in good faith to be its total losses and costs (or gain, in which case expressed as a negative number) in connection with this Agreement or that Terminated Transaction or group of Terminated Transactions, as the case may be, including any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment or delivery required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made, except, so as to avoid duplication, if Section 6(e)(i)(1) or (3) or 6(e)(ii)(2)(A) applies. Loss does not include a party’s legal fees and out-of-pocket expenses referred to under Section 11. A party will determine its Loss as of the relevant Early Termination Date, or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to quotations of relevant rates or prices from one or more leading dealers in the relevant markets.

“Market Quotation” means, with respect to one or more Terminated Transactions and a party making the determination, an amount determined on the basis of quotations from Reference Market-makers. Each quotation will be for an amount, if any, that would be paid to such party (expressed as a negative number) or by such party (expressed as a positive number) in consideration of an agreement between such party (taking into account any existing Credit Support Document with respect to the obligations of such party) and the quoting Reference Market-maker to enter into a transaction (the “Replacement Transaction”) that would have the effect of preserving for such party the economic equivalent of any payment or delivery (whether the underlying obligation was absolute or contingent and assuming the satisfaction of each applicable condition precedent) by the parties under Section 2(a)(i) in respect of such Terminated Transaction or group of Terminated Transactions that would, but for the occurrence of the relevant Early Termination Date, have

been required after that date. For this purpose, Unpaid Amounts in respect of the Terminated Transaction or group of Terminated Transactions are to be excluded but, without limitation, any payment or delivery that would, but for the relevant Early Termination Date, have been required (assuming satisfaction of each applicable condition precedent) after that Early Termination Date is to be included. The Replacement Transaction would be subject to such documentation as such party and the Reference Market-maker may, in good faith, agree. The party making the determination (or its agent) will request each Reference Market-maker to provide its quotation to the extent reasonably practicable as of the same day and time (without regard to different time zones) on or as soon as reasonably practicable after the relevant Early Termination Date. The day and time as of which those quotations are to be obtained will be selected in good faith by the party obliged to make a determination under Section 6(e), and, if each party is so obliged, after consultation with the other. If more than three quotations are provided, the Market Quotation will be the arithmetic mean of the quotations, without regard to the quotations having the highest and lowest values. If exactly three such quotations are provided, the Market Quotation will be the quotation remaining after disregarding the highest and lowest quotations. For this purpose, if more than one quotation has the same highest value or lowest value, then one of such quotations shall be disregarded. If fewer than three quotations are provided, it will be deemed that the Market Quotation in respect of such Terminated Transaction or group of Terminated Transactions cannot be determined.

“Non-default Rate” means a rate per annum equal to the cost (without proof or evidence of any actual cost) to the Non-defaulting Party (as certified by it) if it were to fund the relevant amount.

“Non-defaulting Party” has the meaning specified in Section 6(a).

“Office” means a branch or office of a party, which may be such party’s head or home office.

“Potential Event of Default” means any event which, with the giving of notice or the lapse of time or both, would constitute an Event of Default.

“Reference Market-makers” means four leading dealers in the relevant market selected by the party determining a Market Quotation in good faith (a) from among dealers of the highest credit standing which satisfy all the criteria that such party applies generally at the time in deciding whether to offer or to make an extension of credit and (b) to the extent practicable, from among such dealers having an office in the same city.

“Relevant Jurisdiction” means, with respect to a party, the jurisdictions (a) in which the party is incorporated, organised, managed and controlled or considered to have its seat, (b) where an Office through which the party is acting for purposes of this Agreement is located, (c) in which the party executes this Agreement and (d) in relation to any payment, from or through which such payment is made.

“Scheduled Payment Date” means a date on which a payment or delivery is to be made under Section 2(a)(i) with respect to a Transaction.

“Set-off” means set-off, offset, combination of accounts, right of retention or withholding or similar right or requirement to which the payer of an amount under Section 6 is entitled or subject (whether arising under this Agreement, another contract, applicable law or otherwise) that is exercised by, or imposed on, such payer.

“Settlement Amount” means, with respect to a party and any Early Termination Date, the sum of:—

(a) the Termination Currency Equivalent of the Market Quotations (whether positive or negative) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation is determined; and

(b) such party’s Loss (whether positive or negative and without reference to any Unpaid Amounts) for each Terminated Transaction or group of Terminated Transactions for which a Market Quotation cannot be determined or would not (in the reasonable belief of the party making the determination) produce a commercially reasonable result.

“Specified Entity” has the meaning specified in the Schedule.

“Specified Indebtedness” means, subject to the Schedule, any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of borrowed money.

“Specified Transaction” means, subject to the Schedule, (a) any transaction (including an agreement with respect thereto) now existing or hereafter entered into between one party to this Agreement (or any Credit Support Provider of such party or any applicable Specified Entity of such party) and the other party to this Agreement (or any Credit Support Provider of such other party or any applicable Specified Entity of such other party) which is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Agreement or the relevant confirmation.

“Stamp Tax” means any stamp, registration, documentation or similar tax.

“Tax” means any present or future tax, levy, impost, duty, charge, assessment or fee of any nature (including interest, penalties and additions thereto) that is imposed by any government or other taxing authority in respect of any payment under this Agreement other than a stamp, registration, documentation or similar tax.

“Tax Event” has the meaning specified in Section 5(b).

“Tax Event Upon Merger” has the meaning specified in Section 5(b).

“Terminated Transactions” means with respect to any Early Termination Date (a) if resulting from a Termination Event, all Affected Transactions and (b) if resulting from an Event of Default, all Transactions (in either case) in effect immediately before the effectiveness of the notice designating that Early Termination Date (or, if “Automatic Early Termination” applies, immediately before that Early Termination Date).

“Termination Currency” has the meaning specified in the Schedule.

“Termination Currency Equivalent” means, in respect of any amount denominated in the Termination Currency, such Termination Currency amount and, in respect of any amount denominated in a currency other than the Termination Currency (the “Other Currency”), the amount in the Termination Currency determined by the party making the relevant determination as being required to purchase such amount of such Other Currency as at the relevant Early Termination Date, or, if the relevant Market Quotation or Loss (as the case may be), is determined as of a later date, that later date, with the Termination Currency at the rate equal to the spot exchange rate of the foreign exchange agent (selected as provided below) for the purchase of such Other Currency with the Termination Currency at or about 11:00 a.m. (in the city in which such foreign exchange agent is located) on such date as would be customary for the determination of such a rate for the purchase of such Other Currency for value on the relevant Early Termination Date or that later date. The foreign exchange agent will, if only one party is obliged to make a determination under Section 6(e), be selected in good faith by that party and otherwise will be agreed by the parties.

“Termination Event” means an Illegality, a Tax Event or a Tax Event Upon Merger or, if specified to be applicable, a Credit Event Upon Merger or an Additional Termination Event.

“Termination Rate” means a rate per annum equal to the arithmetic mean of the cost (without proof or evidence of any actual cost) to each party (as certified by such party) if it were to fund or of funding such amounts.

“Unpaid Amounts” owing to any party means, with respect to an Early Termination Date, the aggregate of (a) in respect of all Terminated Transactions, the amounts that became payable (or that would have become payable but for Section 2(a)(iii)) to such party under Section 2(a)(i) on or prior to such Early Termination Date and which remain unpaid as at such Early Termination Date and (b) in respect of each Terminated Transaction, for each obligation under Section 2(a)(i) which was (or would have been but for Section 2(a)(iii)) required to be settled by delivery to such party on or prior to such Early Termination Date and which has not been so settled as at such Early Termination Date, an amount equal to the fair market

value of that which was (or would have been) required to be delivered as of the originally scheduled date for delivery, in each case together with (to the extent permitted under applicable law) interest, in the currency of such amounts, from (and including) the date such amounts or obligations were or would have been required to have been paid or performed to (but excluding) such Early Termination Date, at the Applicable Rate. Such amounts of interest will be calculated on the basis of daily compounding and the actual number of days elapsed. The fair market value of any obligation referred to in clause (b) above shall be reasonably determined by the party obliged to make the determination under Section 6(e) or, if each party is so obliged, it shall be the average of the Termination Currency Equivalents of the fair market values reasonably determined by both parties.

IN WITNESS WHEREOF the parties have executed this document on the respective dates specified below with effect from the date specified on the first page of this document.

.....
(Name of Party)

.....
(Name of Party)

By:
Name:
Title:
Date:

By:
Name:
Title:
Date:

ISDA Schedule to the Master Agreement

(Multicurrency—Cross Border)

ISDA®

International Swap Dealers Association, Inc.

SCHEDULE to the Master Agreement

dated as of

between and
("Party A") ("Party B")

Part 1. Termination Provisions.

(a) "Specified Entity" means in relation to Party A for the purpose of:—

- Section 5(a)(v),
- Section 5(a)(vi),
- Section 5(a)(vii),
- Section 5(b)(iv),

and in relation to Party B for the purpose of:—

- Section 5(a)(v),
- Section 5(a)(vi),
- Section 5(a)(vii),
- Section 5(b)(iv),

(b) "Specified Transaction" will have the meaning specified in Section 14 of this Agreement unless another meaning is specified here

.....
.....

(c) The "Cross Default" provisions of Section 5(a)(vi) will/will not * apply to Party A
will/will not * apply to Party B

If such provisions apply:—

"Specified Indebtedness" will have the meaning specified in Section 14 of this Agreement unless another meaning is specified here

.....

“Threshold Amount” means

- (d) The “Credit Event Upon Merger” provisions of Section 5(b)(iv) will/will not * apply to Party A
will/will not * apply to Party B
- (e) The “Automatic Early Termination” provision of Section 6(a) will/will not * apply to Party A
will/will not * apply to Party B
- (f) **Payments on Early Termination.** For the purpose of Section 6(e) of this Agreement:—
 - (i) Market Quotation/Loss * will apply.
 - (ii) The First Method/The Second Method * will apply.
- (g) “Termination Currency” means, if such currency is specified and freely available, and otherwise United States Dollars.

- (h) **Additional Termination Event** will/will not apply*. The following shall constitute an Additional Termination Event:—

For the purpose of the foregoing Termination Event, the Affected Party or Affected Parties shall be:—

Part 2. Tax Representations.

- (a) **Payer Representations.** For the purpose of Section 3(e) of this Agreement, Party A will/will not* make the following representation and Party B will/will not* make the following representation:—

It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement, (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement and (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement, *provided* that it shall not be a breach of this representation where reliance is placed on clause (ii) and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (b) **Payee Representations.** For the purpose of Section 3(f) of this Agreement, Party A and Party B make the representations specified below, if any:

- (i) The following representation will/will not* apply to Party A and will/will not* apply to Party B:—

It is fully eligible for the benefits of the “Business Profits” or “Industrial and Commercial Profits” provision, as the case may be, the “Interest” provision or the “Other Income” provision (if any) of the Specified Treaty with respect to any payment described in such provisions and received or to be received

by it in connection with this Agreement and no such payment is attributable to a trade or business carried on by it through a permanent establishment in the Specified Jurisdiction.

If such representation applies, then:—

“*Specified Treaty*” means with respect to Party A

“*Specified Jurisdiction*” means with respect to Party A

“*Specified Treaty*” means with respect to Party B

“*Specified Jurisdiction*” means with respect to Party B

(ii) The following representation will/will not* apply to Party A and will/will not* apply to Party B:—

Each payment received or to be received by it in connection with this Agreement will be effectively connected with its conduct of a trade or business in the Specified Jurisdiction.

If such representation applies, then:—

“*Specified Jurisdiction*” means with respect to Party A

“*Specified Jurisdiction*” means with respect to Party B

(iii) The following representation will/will not* apply to Party A and will/will not* apply to Party B:—

(A) It is entering into each Transaction in the ordinary course of its trade as, and is, either (1) a recognised U.K. bank or (2) a recognised U.K. swaps dealer (in either case (1) or (2), for purposes of the United Kingdom Inland Revenue extra statutory concession C17 on interest and currency swaps dated March 14, 1989), and (B) it will bring into account payments made and received in respect of each Transaction in computing its income for United Kingdom tax purposes.

(iv) Other Payee Representations:—

.....
.....
.....

N.B. The above representations may need modification if either party is a Multibranch Party.

Part 3. Agreement to Deliver Documents.

For the purpose of Sections 4(a)(i) and (ii) of this Agreement, each party agrees to deliver the following documents, as applicable:—

(a) Tax forms, documents or certificates to be delivered are:—

Party required to deliver document	Form/Document/ Certificate	Date by which to be delivered
.....
.....
.....
.....
.....

(b) Other documents to be delivered are:—

Party required to deliver document	Form/Document/ Certificate	Date by which to be delivered	Covered by Section 3(d) Representation
.....	Yes/No*
.....	Yes/No*
.....	Yes/No*
.....	Yes/No*
.....	Yes/No*

Part 4. Miscellaneous.

(a) *Addresses for Notices.* For the purpose of Section 12(a) of this Agreement:—

Address for notices or communications to Party A:—

Address:

Attention:

Telex No.: Answerback:

Facsimile No.: Telephone No.:

Electronic Messaging System Details:

Address for notices or communications to Party B:—

Address:

Attention:

Telex No.: Answerback:

Facsimile No.: Telephone No.:
Electronic Messaging System Details:

(b) **Process Agent.** For the purpose of Section 13(c) of this Agreement:—

Party A appoints as its Process Agent

Party B appoints as its Process Agent

(c) **Offices.** The provisions of Section 10(a) will/will not* apply to this Agreement.

(d) **Multibranch Party.** For the purpose of Section 10(c) of this Agreement:—

Party A is/is not* a Multibranch Party and, if so, may act through the following Offices:—

.....
.....

Party B is/is not* a Multibranch Party and, if so, may act through the following Offices:—

.....
.....

(e) **Calculation Agent.** The Calculation Agent is, unless otherwise specified in a Confirmation in relation to the relevant Transaction.

(f) **Credit Support Document.** Details of any Credit Support Document:—

.....
.....
.....

(g) **Credit Support Provider.** Credit Support Provider means in relation to Party A,

.....
.....

Credit Support Provider means in relation to Party B,

.....
.....

(h) **Governing Law.** This Agreement will be governed by and construed in accordance with English law/the laws of the State of New York (without reference to choice of law doctrine) *.

- (i) *Netting of Payments.* Subparagraph (ii) of Section 2(c) of this Agreement will not apply to the following Transactions or groups of Transactions (in each case starting from the date of this Agreement/in each case starting from *).
.....
.....
- (j) “*Affiliate*” will have the meaning specified in Section 14 of this Agreement unless another meaning is specified here
.....

Part 5. Other Provisions.

**June 1997 Australian Addendum
No. 13 – Electricity Transactions**

**Addendum to Schedule to
Master Agreement of International Swaps
and Derivatives Association Inc.**

JUNE 1997
AUSTRALIAN ADDENDUM NO. 13 -
ELECTRICITY TRANSACTIONS

ADDENDUM TO SCHEDULE TO MASTER AGREEMENT OF
INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION, INC.

(1) Application

By incorporating this Addendum in their ISDA Master Agreement, the parties agree that every Commodity Transaction between them entered into after that time where the commodity is electricity is a Transaction governed by the terms of this Addendum and the ISDA Master Agreement in which it is incorporated.

This applies whether or not the parties:

- (a) refer to the ISDA Master Agreement or this Addendum; or
- (b) state that a Commodity Transaction is governed by the terms of any other master agreement

when entering into or confirming the Commodity Transaction.

If a Commodity Transaction is a Transaction governed by the terms of this Addendum and the ISDA Master Agreement in which it is incorporated, then the terms of any other master agreement do not apply to it even if the parties state that the Commodity Transaction is governed by the terms of any other master agreement when entering into or confirming the Commodity Transaction.

(2) Confirmations

- (a) The parties acknowledge that Commodity Transactions governed by the terms of this Addendum and the ISDA Master Agreement in which it is incorporated may be confirmed by various methods including, without limitation, the following:

- Telex
- Letter
- Reuters direct dealing system
- Telerate trading service
- Facsimile

- (b) A confirmation produced by any method constitutes a Confirmation for the purpose of this Agreement. Each such Confirmation supplements, forms part of, and is subject to the ISDA Master Agreement in which this Addendum is incorporated.
- (c) The parties acknowledge that some Confirmations may describe some items by a term other than the defined term in this Addendum, the 1991 ISDA Definitions or the 1993 ISDA Commodity Derivatives Definitions. For example:

“Settlement Date” may be referred to as “Maturity Date” or “Value Date”; and

“Floating Price” or “Floating Rate” may be referred to as “Reference Price”.

In any case where the intention is clear that a term used in a Confirmation is intended to specify the particulars for a defined term in this Addendum, the 1991 ISDA Definitions or the 1993 ISDA Commodity Derivatives Definitions, then that term is to be deemed to be that defined term.

(3) Definitions

- (a) The definitions and provisions contained in the 1991 ISDA Definitions, the 1993 ISDA Commodity Derivatives Definitions and in this Addendum are incorporated into each Confirmation. If there is an inconsistency between those definitions and provisions and any such Confirmation, the Confirmation will govern. In the event of any inconsistency between the definitions and provisions contained in the 1991 ISDA Definitions and the definitions and provisions contained in the 1993 ISDA Commodity Derivatives Definitions, the 1993 ISDA Commodity Derivatives Definitions will govern.
- (b) In this Addendum “Commodity Transaction” means any transaction relating to electricity which is or is described in its confirmation as a forward commodity transaction, a spot commodity transaction or a commodity option whether or not the Settlement Date is fixed and any other type of transaction relating to electricity falling within the meaning of “Transaction” in the 1993 ISDA Commodity Derivatives Definitions. “Commodity Transaction” also means any other type of transaction which parties agree to be a Commodity Transaction relating to electricity.
- (c) Each Commodity Transaction is a “Transaction” for the purpose of the ISDA Master Agreement in which this Addendum is incorporated.
- (d) In this Addendum references to the 1991 ISDA Definitions and the 1993 ISDA Commodity Derivatives Definitions are references to those publications as published by the International Swaps and Derivatives Association, Inc.

(4) Certain definitions and other provisions

- (a) The following definitions apply to this Addendum and to any Commodity Transaction.

“**Code**” means the NSW State Electricity Market Code prepared by the Market and System Operator pursuant to its functions under section 78(1)(f) of the Electricity Supply Act 1995 (NSW), as amended, substituted or replaced.

“**Commencement Time**” means:

- (a) in the case of a Commodity Transaction that incorporates a Floating Amount or a Cash Settlement calculated by reference to a Floating Price determined under the Queensland Code, the date and time at which Chapter 3 of the National Code commences to operate in Queensland under the Electricity - National Scheme (Queensland) Act 1997 (Qld) and the National Electricity (Queensland) Law (as defined in that Act); and

- (b) in the case of any other Commodity Transaction, the date and time at which Chapter 3 of the National Code commences to operate under the National Electricity Law.

“Market and System Operator” has the meaning in the Electricity Supply Act 1995 (NSW).

“MW” means megawatt.

“MWh” means a megawatt hour.

“National Code” means the code of conduct called the “National Electricity Code”, administered and enforced by National Electricity Code Administrator Limited (ACN 073 942 775), and operating under section 6 of the National Electricity Law, as amended from time to time.

“National Electricity Law” means the schedule to the National Electricity (South Australia) Act 1996 (SA).

“NEMMCO” means National Electricity Market Management Company Limited (ACN 072 010 327).

“Queensland System Operator” means the entity appointed under the Electricity Act 1994 (Qld) to operate and administer the electricity market in Queensland in accordance with the Queensland Code.

“Queensland Code” means the National Electricity Code as adopted, applied or in force in Queensland under or by virtue of the Electricity Act 1994 (Qld).

“VicPool Rules” means the rules made by VPX under the power conferred on it by the Wholesale Electricity Market Licence issued to VPX under section 162 of the Electricity Industry Act 1993 (Vic), as amended, substituted or replaced.

“VPX” means Victorian Power Exchange.

- (b) For the purpose of determining a Commodity Reference Price under Section 7.1(c)(ii)(B) of the 1993 ISDA Commodity Derivatives Definitions:

“NSW Pool Price” means:

Commodity:	Electricity
Unit:	MWh
Price Source:	The Market and System Operator
Specified Price:	The pool price as determined under the Code

“VicPool SMP” means:

Commodity:	Electricity
Unit:	MWh

Price Source: VPX
Specified Price: The system marginal price as determined under the VicPool Rules

“Qld Spot Price” means:

Commodity: Electricity
Unit: MWh
Price Source: Queensland System Operator
Specified Price: The spot price at the regional reference node specified in the Confirmation, as determined under the Queensland Code

“Spot Price” means:

Commodity: Electricity
Unit: MWh
Price Source: NEMMCO
Specified Price: The spot price at the regional reference node specified in the Confirmation, as determined under the National Code

(5) Certain definitions relating to commodity options

The following definition applies to any Commodity Transaction which is, or is described in its confirmation as, a commodity option.

“Expiration Time” means the latest time on the Expiration Date at which the Seller will accept a Notice of Exercise.

Summary of Schedule to the Master Agreement

Part 1.

Termination Provisions.

- (a) No *Specified Entity* is identified for either of Party A or Party B.
- (b) *Specified Transaction* has the meaning specified in Section 14 of the Master Agreement as if the words “(including, for the avoidance of doubt, credit derivatives and electricity, gas and other energy derivatives)” were inserted in the last line of the definition.
- (c) The *Cross Default* provisions of Section 5(a)(vi) apply to both Party A and Party B.
- For such purposes: *Specified Indebtedness* means any obligation (whether present or future, contingent or otherwise, as principal or surety or otherwise) in respect of money borrowed or raised or under any finance lease, redeemable preference share, letter of credit, futures contract, guarantee, indemnity or transaction of a type described in the last 6 lines of the definition of Specified Transaction; and
 - *Threshold Amount* means a specified amount for Party A and a specified amount for Party B.
- (d) The *Credit Event Upon Merger* provisions of Section 5(b)(iv) will apply to both Party A and Party B.
- (e) The *Automatic Early Termination* provision of Section 6(a) will not apply to either Party A or apply to Party B.
- (f) *Payments on Early Termination*. For the purpose of Section 6(e) of this Agreement:
- (1) Market Quotation will apply; and
 - (2) the Second Method will apply.
- (g) *Termination Currency* means Australian dollars.
- (h) *Additional Termination Event* will apply. The following shall constitute an Additional Termination Event:

An Event of Default occurs with respect to a party (**Party X**), Party X has satisfied all its payment and delivery obligations under Section 2(a)(i) with respect to all Transactions and has no future payment or delivery obligations to the other party (**Party Y**) whether absolute or contingent under Section 2(a)(i), and Party Y refuses to make a payment to Party X based upon the condition precedent in Section 2(a)(iii).

For the purpose of the foregoing Termination Event, the Affected Party shall be Party X. However, despite Section 6(b)(iv), Party X is the party entitled to give the notice under Section 6(b)(iv) designating the Early Termination Date for the foregoing Termination Event.

Part 2.

Tax Representations.

- (a) ***Payer Representations.*** For the purpose of Section 3(e) of the Master Agreement, both Party A and Party B make the following representation:
- It is not required by any applicable law, as modified by the practice of any relevant governmental revenue authority, of any Relevant Jurisdiction to make any deduction or withholding for or on account of any Tax from any payment (other than interest under Section 2(e), 6(d)(ii) or 6(e) of this Agreement) to be made by it to the other party under this Agreement. In making this representation, it may rely on:
- (i) the accuracy of any representations made by the other party pursuant to Section 3(f) of this Agreement;
 - (ii) the satisfaction of the agreement contained in Section 4(a)(i) or 4(a)(iii) of this Agreement and the accuracy and effectiveness of any document provided by the other party pursuant to Section 4(a)(i) or 4(a)(iii) of this Agreement; and
 - (iii) the satisfaction of the agreement of the other party contained in Section 4(d) of this Agreement,

provided that it shall not be a breach of this representation where reliance is placed on clause (ii) and the other party does not deliver a form or document under Section 4(a)(iii) by reason of material prejudice to its legal or commercial position.

- (b) ***Payee Representations.***

For the purpose of Section 3(f), Party A and Party B make the representations specified below:

- (1) The following representation will apply to Party A and will not apply to Party B:

It is an Australian resident and does not derive the payments under this Agreement in whole or in part in carrying on business in a country outside Australia at or through a permanent establishment of itself in that country.
- (ii) The following representation will not apply to Party A and will apply to Party B:-

Each payment received or to be received by it in connection with this Agreement will be effectively connected with its conduct of a trade or business in the Specified Jurisdiction.

If such representation applies, then:-

Specified Jurisdiction means, with respect to Party B, the Commonwealth of Australia

Part 3.

Agreement to Deliver Documents.

For the purpose of Sections 4(a)(i) and (ii) of the Master Agreement, each party agrees to deliver the following documents, as applicable:

- (a) ***Tax forms, documents or certificates to be delivered are:*** any document reasonably required or reasonably requested in connection with payments under the Master Agreement to enable payment to be made free from or reduce withholdings on account of Tax.

Party required to deliver: Party A and Party B.

Date by which to be delivered: On the earlier of (a) learning that such document or certificate is required and (b) as soon as reasonably practicable following a request by the other party.

- (b) ***Other documents to be delivered are:***

- (i) A list of authorised signatories and evidence of authority in form and substance satisfactory to the other.

Party required to deliver: Party A and Party B

Date by which to be delivered: On execution of the Master Agreement or any relevant Confirmation and when the list is updated.

Covered by Section 3(d) Representations: Yes.

- (ii) Audited consolidated accounts.

Party required to deliver: Party A and Party B

Date by which to be delivered: 120 days after the end of the party's financial year.

Covered by Section 3(d) Representations: No.

- A. Subject to B and C below, each Party must keep confidential all information provided pursuant to this paragraph (ii), other than information which is or becomes public knowledge other than by reason of breach of the Master Agreement.
- B. A Party may make any disclosures as, in its absolute discretion, it thinks necessary to:
- comply with any law; or
 - if they undertake to keep the information confidential:
 - its professional advisers, bankers, financial advisers, financiers (including any proposed Permitted Chargee) and insurers;
 - its employees (on a need to know basis);

- in connection with the proposed sale of its share capital or any relevant part of its business undertaking;
 - any related body corporate and any proposed investors.
- C. Only for so long as Party A is wholly owned (directly or indirectly) by the State of South Australia, Party A must not, without consent make disclosures unless it is a disclosure:
- to Parliament, the Governor, Cabinet, any Minister of the Crown or Parliamentary or Cabinet committee or sub-committee having a proper interest in the Agreement;
 - by reason of constitutional convention or it is reasonable for the purpose of performing its own obligations under the Agreement or monitoring the performance of Party B under the Agreement or the law requires it or for the purposes of defending any legal proceedings.

Part 4.

Miscellaneous.

- (a) Contact details for both parties are specified.
- (b) ***Process Agent.***
Party A does not appoint a Process Agent.
Party B appoints National Power Australia Pty Ltd ACN 062 798 510 as its Process Agent.
- (c) ***Offices.*** The provisions of Section 10(a) will not apply to the Agreement.
- (d) ***Multibranch Party.***
Neither party is a Multibranch Party.
- (e) ***Calculation Agent.*** Unless specified in a Confirmation the Calculation Agent is Party B for each Transaction.
- (f) ***Credit Support Document.***
For each Party, any credit enhancement granted as to it under Section 4(f).
- (g) ***Credit Support Provider.*** For each Party, the Credit Support Provider in relation to it is any person that grants credit enhancement under Section 4(f).
- (h) ***Governing Law.*** The Master Agreement is governed by the laws of South Australia and each party submits to the non-exclusive jurisdiction of the courts of South Australia.

- (i) **Netting of Payments.** Sub-paragraph (ii) of Section 2(c) of the Master Agreement will not apply to all Transactions.
- (j) **Affiliate** will have the meaning specified in Section 14 of this Agreement other than in Section 3(c) when Party A and Party B are deemed to have no Affiliates.

Part 5.

Other Provisions.

- (a) In Section 2(a)(i) add the following sentence:

“Each payment will be by way of exchange for the corresponding payment or payments payable by the other party”.
- (b) For the purpose of Section 2(b) of the Agreement, any new account must be in the same tax jurisdiction as the original account and no party may change its account if, in the reasonable opinion of the other, that other will suffer any adverse tax consequences as a result of the change.
- (c) A new Section 4(f) is inserted to the following effect:
 - (1) If the creditworthiness of either party or its Credit Support Provider is, in the opinion of the other party, materially weaker (including by reason of ceasing to be an Affiliate of the State of South Australia) than as at the date of the Master Agreement (or when credit support was last requested) credit enhancement must be provided in the amount and in form and substance and granted by an entity reasonably acceptable to the other.
 - (2) A party may dispute the necessity or form for credit enhancement, such dispute to be determined by independent expert selected by both parties (failing which appointed by the CEO of the Australian Financial Markets Association), whose decision is final and binding on both parties. Any costs of the expert are to be borne equally by the parties.
 - (3) Failure to provide credit enhancement when required is an Additional Termination Event but not an Event of Default.
- (d) Section 5(a)(i) is replaced with a clause to the effect that a failure to effect a payment or delivery is excused:
 - if due solely to technical or similar error outside the control of the party concerned and cured within 5 Local Business Days after notice;
 - otherwise, if cured within 3 Local Business Days after notice.
- (e) A proviso is inserted at the end of Section 5(a)(vi) to the effect that an Event of Default does not occur under either (1) or (2) if due to technical or similar error outside the control of the party and is cured within 5 Local Business Days.
- (f) Section 5(a)(vi)(7) is amended by:

- (a) inserting the words "(other than a Permitted Chargee)" after the words "secured party" where first appearing; and
- (b) inserting the words "(other than by or on the motion of the Permitted Chargee)" after the words "all its assets".
- (g) A new Section 6(f) is inserted to the following effect:
- Amounts payable under the Master Agreement by one to another after an Early Termination Date may (without notice) be set-off against amounts payable or owing (but not contingently payable) by the other (irrespective of the currency, place of payment or booking office of the obligation).
 - The manner in which set-offs in different currencies is provided for.
 - Notice of the amount of set-off must be given.
 - The right of set-off is not to constitute a security interest and is in addition to any right of set-off or similar remedy.
- (h) Section 7 is amended by inserting a new paragraph (ab):
- “(ab) Party B may grant security over all or any part of its interest in or under this Agreement to a Permitted Chargee provided that the Permitted Chargee enters into a Permitted Chargee Deed (and Party A agrees to enter into such an agreement on terms reasonably acceptable to it); and”
- (i) Provision is made for when facsimiles are to be regarded as received.
- (j) The waiver by each party in Section 13(d) is without prejudice to the Crown Proceedings Act 1992 (SA) (as amended) to the extent that it applies.
- (k) In Section 14, the definitions of "Default Rate" and "Non-default Rate" are replaced with new definitions:
- Default Rate** is at any time a specified margin above the Non-default Rate;
- Non-default Rate** is a specified bank bill rate.
- (l) Section 14 inserts definitions dealing with Permitted Chargees in similar terms found in each of the other agreements summarised.
- (m) Addendum No. 13 – Electricity Transactions forms part of the Agreement.
- (n) Provision is made for any transaction which is a Commodity Transaction (as defined in Addendum No. 13 - Electricity Transactions):
- (i) When a Calculation Period for a Commodity Transaction is a period shorter than one day, the term "Pricing Date" for that Calculation Period means that Calculation Period.
 - (ii) Section 7.3 of the 1993 ISDA Commodity Derivative Definitions is varied by changing the reference to "30 calendar days" where it first appears to "6 months".

- (iii) The definition of the term "National Code" is replaced so as to refer to the National Electricity Code within the meaning of the National Electricity Law."
- (iv) The Market Disruption Events which apply to a Commodity Transaction are:
 - (1) Price Source Disruption;
 - (2) Tax Disruption;
 - (3) Material Change in Formula;
 - (4) where a Specified Price for that Commodity Transaction is a spot price (as defined in the National Code) at a regional reference node (as defined in the National Code), the occurrence after the Trade Date of that Transaction of one of the following:
 - (A) a change in the location of that regional reference node; or
 - (B) a change in the boundaries of the region (as defined in the National Code) in which that regional reference node is located;
- (v) Despite Section 1(b) of the Master Agreement, the term "Material Change in Formula" does not apply to:
 - (1) a change in VoLL; or
 - (2) a change in the National Code that permits spot prices to be quoted as negative prices.
- (vi) Section 7.4(c)(vii) of the 1993 ISDA Commodity Derivative Definitions is varied by inserting the following after the word "sales":

"carbon tax (which term includes any tax, charge, assessment or levy relating to the emission of carbon or carbon compounds into the atmosphere, any substance characterised as a greenhouse gas or greenhouse precursor gas) and any requirement imposed by any government authority to reduce emissions of any gases or substances that requires any investment of capital or increase in operating costs to comply with it."
- (vii) The Disruption Fallbacks which apply to each Commodity Transaction are:
 - (1) Negotiated Fallback;
 - (2) Calculation Agent Determination, on the basis that:
 - (A) the Calculation Agent for these purposes is an expert having an office in Australia selected by the parties (or, failing

agreement within 2 Business Days selected by the chief executive officer for the time being of Australian Financial Markets Association (or any successor body) at the request of one of the parties);

(B) the Calculation Agent is to act as an expert (and not as an arbitrator) and must take into account the views of 3 other experts selected in the same manner as the Calculation Agent was selected; and

(C) the costs and expenses of the Calculation Agent will be borne equally by the parties; and

(3) No Fault Termination,

provided that an agreement or determination pursuant to a Negotiated Fallback or Calculation Agent Determination may be effected as an amendment to a Relevant Price (or a method for determining a Relevant Price), a Fixed Price or a Notional Quantity or it may oblige a party to make a lump sum payment to the other party.

(viii) The definition of “Reference Market-makers” in Section 14 of this Agreement is replaced with:

“Reference Market-makers” means four experts having an office in Australia selected by the chief executive officer for the time being of Australian Financial Markets Association (or any successor body) at the request of the party determining a Market Quotation.”

(ix) For each Calculation Period that occurs in a billing period (as defined in the National Code), the “Settlement Date” is aligned to the day on which NEM market participants are obliged to make payments under the National Electricity Code.

(x) If the Confirmation for a commodity option specifies both Contract Settlement and Cash Settlement and the Buyer elects to exercise the option, the Buyer will specify whether Contract Settlement or Cash Settlement applies (following which that will apply) and failing notice Contract Settlement will apply.

(xi) Automatic exercise is inapplicable to any commodity option.

(xii) The place to apply for the purpose of the definition of Business Days is Adelaide.

(xiii) The Calculation Agent for Commodity Transactions is Party B.

(xiv) Calculations resulting in a negative number for a party will result in the other party owing it that amount.

- (xv) Unless otherwise specified amounts will be rounded in the manner determined in good faith by the Calculation Agent having regard to its usual and reasonable practices.
- (o) Reference to an administrator means an administrator appointed under the Corporations Law with “administration” having a corresponding meaning.

(p) **Force Majeure**

A new section 15 is inserted to the following effect:

- A party wanting to have its obligations varied because of a Force Majeure Event has to give notice to the other as to the nature and likely duration of the event and its consequences. Notices of changes as well as to the end of the event and its consequences also need to be given.
- A party may dispute any such notice. An independent expert selected by the parties (failing agreement, appointed by the CEO of the Australian Financial Markets Association) will resolve disputes and that decision is final and binding on both parties. Costs of the expert will be borne equally by both parties unless the expert determines that a party did not act in good faith in giving a relevant notice, in which case costs are to be borne in a manner determined by the expert.
- Provision is made for both interim and final adjustments to the amounts payable (effected by varying the Notional Quantity) as well as adjustments subsequent to what otherwise be the final payment for a Transaction if the consequences of the Force Majeure Event are not known with certainty until then. The variation to the Notional Quantity is determined by considering the effect that Force Majeure Event has on the capacity of each party (in the case of Party A, being its capacity to supply electricity to its customers but for the Force Majeure Event and in the case of Party B, being the electricity that cannot be sent out from the power station (identified in the relevant confirmation) because of the Force Majeure Event).
- Provision is made for dealing with the situation where both parties are claiming a Force Majeure Event (by making the adjustment that results in the lowest adjusted National Quantity).
- There are detailed provisions as to how notices (telephone, facsimile and electronic messaging) are to be given, including outside normal business hours.

Force Majeure Event means any of the following events:

- certain industrial disputes;
- wars, revolutions etc;
- acts of God;
- acts of sabotage or vandalism;

- certain plant and equipment failures;
- withdrawal of the relevant power station or the distribution system to comply with certain lawful directions relating to emergencies or to avoid serious and immediate risks of certain significant plant or equipment failures or a failure of the high voltage network transmission system

which alone or with other such event, has the effect of:

- (1) in relation to Party B, reducing the electricity sent out by the relevant power station by a proportion equal to or greater than a specified percentage of its normal capacity as specified in a confirmation; or
- (2) in relation to Party A, reducing the electricity supplied to its customers by a proportion equal to or greater than a specified percentage of that which it would otherwise have supplied;

where it could not reasonably have been avoided by the relevant party acting in accordance with Good Electricity Industry Practice as existed immediately prior to the relevant event.

(q) Provision is made, in place of section 16 of the Master Agreement, for dispute resolution facilitated by an expert selected by the parties (failing agreement selected by the CEO of the Australian Financial Markets Association) whose decision is final and binding on both parties. Costs of the expert will be borne equally by both parties unless the expert determines that a party did not act in good faith in which case the costs will be borne as determined by the expert.

(p) Provision is made as to how and under what circumstances the parties may effect transactions by telephone rather than in writing.

(q) **Representations**

Each party represent:

- those executing have authority to do so
- it is not relying upon any representations other than those in the Master Agreement or in any Confirmation.

(r) **GST**

- A new Section 17 is inserted in similar terms to in the other Agreements (refer Section 20 of the Implementation Agreement Summary), with one additional clause.
- The additional clause is to the effect that, if after the date of the Master Agreement, the Australian Financial Markets Association (or successor body) publishes a recommended clause as to the treatment of GST issues the parties will, if requested, negotiate in good faith to incorporate a provision based on that recommended clause in lieu of the current clause.

ANNEXURE 5 TO RETAIL AGREEMENT SUMMARY

Summary of Confirmation

1. The terms of the particular Transaction to which this Confirmation relates are:

Notional Quantity per Calculation Period:	For each Calculation Period, 100 MWh.
Trade Date:	9 March 1999.
Effective Date:	The earlier of a specified date (the later date) and the Actual Increased Operation Date (within the meaning of the Implementation Agreement), though Party B may nominate as the Effective Date a date (not earlier than a specified date (the earlier date)) that is after the Actual Increased Operation Date but before a specified date (the middle date).
Termination Date:	A specified date.
Calculation Periods:	Each 30 minute period ending on the hour or the half-hour (EST), between the Effective Date and the Termination Date.
<u>Floating Amount Details:</u>	
Floating Price Payer:	Party B in relation to the Cap Price and Party A in relation to the Floor Price.
Cap Price:	For each Calculation Period, the specified price(s) applicable to that Calculation Period, as adjusted in accordance with provisions dealing with CPI adjustments and adjustments due to changes in taxes and imposts.
Floor Price:	For each Calculation Period, the specified price(s) applicable to that Calculation Period, as adjusted in accordance with provisions dealing with CPI adjustments and adjustments due to changes in taxes and imposts.
Commodity Reference Price:	
Commodity:	Electricity
Unit:	MWh
Price Source:	NEMMCO
Specified Price:	The Spot Price as at the South Australian reference node as determined under the National Code.

2. Effective Date

As above.

3. Adjustment of Floor Prices and Cap Prices

Each of the base Floor Prices and the Cap Prices are to be adjusted with effect from 1 July 1999 and annually thereafter by reference to the increase of the CPI over that of the previous year.

The CPI is the Consumer Price All Groups Index weighted average 8 capital cities published by the Australian Bureau of Statistics for the March Quarter in the relevant year.

Party B is to give notice of its calculations of the adjusted prices. Party A may dispute either calculation by notice within 7 days, failing which the notified prices will prevail.

4. Schedule to Master Agreement

For the purposes of the Confirmation, the Schedule to the ISDA Master Agreement is amended as follows:

- The Cross Default provisions will not apply to either party.
- The Additional Credit Support provisions are amended such that Party B is not entitled to request Additional Credit Support if Party A is an Affiliate of the State of South Australia, by reason of Party A ceasing to be an Affiliate of the State of South Australia, or unless the creditworthiness of Party A is (in the opinion of B) materially weaker than immediately after Party A ceased to be an Affiliate of the State of South Australia (or, if later, than when a request for credit enhancement was last made by Party B).

5. Force Majeure

The Force Majeure provisions are amended for the purposes of the confirmation to the following effect:

- Pelican Point Power Station is specified as the relevant reference power station and its normal capacity is to be that specified.
- References to customers of Party A are replaced to non-contestable customers.
- Notices are also to be given to the Regulator.
- The Regulator will finally determine whether a Force Majeure Event occurs and the consequences of that event.
- The parties must provide all information reasonably required by the Regulator.
- In the absence of a determination by the Regulator, the Regulator is deemed to have made a determination equivalent as that outlined in the relevant notice.
- The Regulator will be the Force Majeure Expert.

- As decisions will be made by the Regulator, reference to the dispute resolution provisions are removed.
- The definition of Force Majeure Event is modified so that:
 - for Party B, only industrial disputes affecting the Pelican Point Power Station arising as a result of issues relating only to the station are included;
 - only plant and equipment failures in the distribution system or the Pelican Point Power Station are included;
 - a new force majeure event is included, namely a failure of an external fuel or service supplier (other than certain Affiliates of the notifying party) to comply with any contractual requirement to supply fuel or services to the Pelican Point Power Station or the distribution system, whether the failure is a breach of contract or is due to being excused from performance (e.g. under force majeure relief).
 - the threshold test for determining whether the Force Majeure Event is to be recognised for Party B is to be 20% of Party B's Normal Capacity and a specified amount if the Force Majeure Event is that of a failure of Terra Gas Trader as an external fuel supplier under the Pelican Point Gas Supply Agreement;
 - the Normal Capacity of Party B is deemed to be a specified amount if the Force Majeure Event is that of a failure of Terra Gas Trader as an external fuel supplier.
- The definition of Normal Capacity for Party A is replaced by a definition which determines by the reference to a formula the MW of electricity that would be supplied to non contestable customers.
- The Regulator is the South Australian Independent Industry Regulator, or if there is no such regulator the relevant Minister under the Electricity Act.

6. Changes in Taxes and Imposts

- Either party may give notice to each other and the Regulator if after the Trade Date, it considers that:
 - there is a change in taxes or similar (including the removal of, or change in rate) referable to the generation or wholesale of electricity;
 - there is a change in (including the removal of) laws requiring reduction of emissions of gases or substances;
 - a change in certain fees payable under the National Electricity Code which represents a change in the proportions of fees borne by generators and by other parties under the National Electricity Code,

AND as a result, a variation to the Cap Prices and the Floor Prices is to be effected.

- Party B must give notice if, in good faith it considers that the Cap Prices and the Floor Prices will be varied, and Party B is obliged to provide information necessary to enable Party A to make a determination as to whether a notice or variation is required.
- The parties are obliged to update notices given to take into account new information.
- Following receipt of a notice the Regulator will determine whether there has been a relevant change and the consequences of that on amounts payable under the transaction (failing determination, the Regulator will be deemed to have made a determination in terms of the relevant notice).
- If there is such a change, the Cap Price and the Floor Price are varied up or down by an amount reflecting the effect of such changes.
- The amount of such changes are adjusted annually by reference to a specified discount rate (compounded annually).
- The amount of the variation is calculated by reference to the financial consequences, over a maximum period of twenty five years commencing on the CCGT Commercial Operation Date, of Party B adopting a course of action which results in the most favourable adjustment (from the perspective of Party A) to the Cap Price and Floor Price. The financial consequences are then apportioned over the capacity of the power station. The adjustment is final (and no further adjustment is to be made) even if the actual financial consequences are later shown to be greater or lesser than those upon which the adjustments were calculated.
- If payment is not effected until after the relevant period, interest also accrues.
- *Regulator* means the South Australian Independent Industry Regulator.
- *Relevant Tax* means:
 - any tax or similar, imposed by the State of South Australia which solely discriminates against the Pelican Point Power Station;
 - any tax or similar imposed by any Federal Authority (including a goods and services tax) but excluding any income tax (or State equivalent income tax), fringe benefits tax or capital gains tax, payroll tax, fees and charges paid or payable to the Regulator for licences or any membership, contributory or other charge payable to other regulatory bodies in the electricity industry, land tax or any other tax on the ownership

or occupancy of premises, customs and import duty, municipal rates, taxes and other charges imposed by local authorities, stamp duty, financial institutions duty, bank accounts debits tax or similar taxes or duties, penalties and interest for late payment relating to any tax, and any replacement tax.

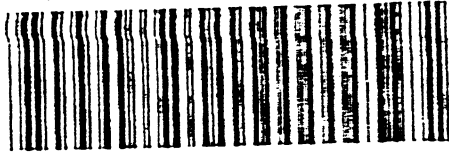
- A change of the type covered by Part 6 will not constitute a Market Disruption Event for the purposes of the Master Agreement.

5. FORESHORE LEASE

The Foreshore Lease is a registered document.

A copy of the document as registered is attached.

8674522



LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

MEMORANDUM OF LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

CERTIFIED CORRECT FOR THE PURPOSES
OF THE REAL PROPERTY ACT 1886

Series No	Prefix
3	L

ORIGINAL (TRIP)

ms Kelly
MARGARET HASTY, Lic. Sullivan
Specialist Licensed Land Broker

BELOW THIS LINE FOR OFFICE USE ONLY

Date 30 APR 1999	Time 14:20		
FEES			
R.G.O.	POSTAGE	ADVERT	NEW C.T.
40			

the production carry forward Lease 8674522 of the whole of CT to issue to allotment 27 in DP52266

CORRECTION	PASSED
	<i>J</i>

BELOW THIS LINE FOR AGENT USE ONLY

AGENT CODE

Lodged by: } FINL
Correction to: } FINL

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

- _____
- _____
- _____
- _____
- _____

ASSESSOR

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

- _____
- _____
- _____
- _____
- _____

JMS352364/2

80.08

30 APR 1999 02:05:21 26.1.0.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENT(S)

ITEM CT/CL REF	AGENT CODE
<i>Leases & Lines carry</i>	FINL
<i>CT LOT 27</i>	

DATED THIS

8th

DAY OF

March

1999

✓

EXECUTION (Penalty for improper witnessing see S268RPA)

THE COMMON SEAL of
SOUTH AUSTRALIAN PORTS



Finlaysons

ALLENS
ARTHUR ROBINSON
GROUP

BARRISTERS SOLICITORS & NOTARIES

OUR REFERENCE MH/352364/1
YOUR REFERENCE
WRITER'S DIRECT LINE 8235 7521

81 FLINDERS STREET CORRESPONDENCE
ADELAIDE AUSTRALIA GPO BOX 1244
TELEPHONE + 61 - 8 - 8235 7400 ADELAIDE SA
FACSIMILE + 61 - 8 - 8232 2544 AUSTRALIA 5001
CIX 152 ADELAIDE

5 May 1999

The Registrar General
101 Grenfell Street
ADELAIDE SA 5000

Attention: Tania Gudiskis

Dear Sir

Requisitions RTC 8674520 and L 8674522

We refer to your requisitions in this matter and respond as follows using your numbering.

RTC 8674520

4. We confirm it is the intention of the plan that the Allotment comprising Pieces 22 and 24 has no access to a public road.
6. We acknowledge and confirm it is the intention of the document to include the covenants between the Grantor and the Grantee who are one and the same person.

L 8674522

5. We confirm this document has been executed by National Power South Australia Investments Limited as a result of or in connection with the construction and operation of a gas-fired power plant to be constructed at Pelican Point, Adelaide.

Thank you for your assistance in this matter.

Yours faithfully



Margaret Hobby
Registered Conveyancer
e-mail: margarethobby@finlaysons.com.au

GROUP AND ASSOCIATED OFFICES

SYDNEY	MELBOURNE	BRISBANE	PERTH	ADELAIDE	GOLD COAST
SINGAPORE	HONG KONG	JAKARTA	PORT MORESBY	SHANGHAI	BANGKOK
MH/397860					

Form LI

subject and to give with the easement and rights of way created by Application for Deposit of a Plan of **MEMORANDUM OF LEASE** *30/1/99 and label contemporaneously hereunto*

CERTIFICATE(S) OF TITLE BEING LEASED

The whole of the land comprised in Allotment 27 DP 52266 being portion of the land comprised in certificate of title register book volume 5421 folio 435 and *folios 526 527 and 528*

ESTATE OF LESSOR

In fee simple

COMMISSIONER OF STATE TAXATION

S.A. STAMP DUTY PAID \$140.00

ENCUMBRANCE(S)

Nil

REGISTERED OVER BURIED ORIGINAL with 2 copies
DEPOSITED 19/02/99 00357874.1
Annual Rental (\$14000.00)
LEASE

LESSOR

Full Name and Address

SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the *South Australia Ports Corporation Act 1994* of 296 St Vincent Street, Port Adelaide, South Australia 5015

LESSEE

Full Name and Address

NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED of Level 26 Australia Square, 264-278 George Street, Sydney, New South Wales 2000 (ARBN 086 411 814)

TERM OF LEASE

5 years commencing on 1 March 1999

RENT AND MANNER OF PAYMENT (OR OTHER CONSIDERATION)

See clause 3

OPERATIVE CLAUSE
(a) delete whichever is
inapplicable

The lessor leases to the lessee the land (a) ~~ABOVE~~~~HEREINAFTER~~ described and the lessee accepts this lease of the land for the term and at the rent stipulated, subject to the covenants and conditions below and to the powers and covenants implied by the Real Property Act, 1886 (except to the extent that the same are modified or negated below).

DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC WHERE APPROPRIATE

NOT APPLICABLE

CONSENTS OF MORTGAGEES AND SEC 32 DEVELOPMENT ACT CERTIFICATION

This Lease does not contravene section 32 of the Development Act, 1993.

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as follows:
(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

COVENANTS

PART 1 - DEFINITIONS & INTERPRETATIONS

L. DEFINITIONS

Subject to any contrary intention indicated by subject or context, in the interpretation of this Lease the following terms and expressions are stipulated as having the following meanings:

"Business Day" means a day which is not a Saturday, Sunday or public holiday in South Australia;

"Claim" means any claim, demand, action, cause of action, proceedings, judgment, order, relief, remedy, right, entitlement, damage, loss, compensation, reimbursement, cost, expense or liability incurred, suffered, brought, made or recovered of whatever nature, however arising under statute, at law or in equity or whether or a contractual, proprietary or tortious nature (whether in negligence, other breach of duty, of a strict liability or otherwise) including, without limitation, pursuant to the Environment Protection Act 1993;

"Commencement Date" means 1 March 1999 for the initial five (5) year term and the first day of any subsequent monthly tenancy;

"Easement" means an Easement to be granted by the Lessor to the Lessee forming Schedule 2 to this Lease;

"Interest Rate" means the interest rate equal to the aggregate of the sum of three per cent (3%) and the business indicator rate, from time to time, applicable to variable business loans less than one hundred thousand dollars (\$100,000) as published monthly in the Reserve Bank of Australia Bulletin;

"Investment Grade" means, with respect to a person, that the person has a credit rating of at least BBB- by Standard & Poor's Rating Group or an equivalent rating by Moody's Investors Service, Inc (or any replacement rating classification by either rating service which is determined in substantially the same manner);

"Lessee" means the said National Power South Australia Investments Limited (together with its successors and permitted assigns and includes its employees, agents and contractors);

(AREN 086 411 814)
APL

"Lessee's Property" means the Lessee's buildings, equipment, fixtures, fittings, pipes, infrastructure, improvements or other property installed by or at the expense of the Lessee on or under the Land;

"Lessor" means the South Australian Ports Corporation together with its successors and assigns;

"Main Site" means Allotments 29 and 29 DP 52266

"Marketable Securities" has the meaning given in the Corporations Law, but also includes:

- (a) a document referred to in the exceptions to the definition of debenture in the Corporation Law;
- (b) a unit or other interest in a trust or partnership;
- (c) a negotiable instrument; and
- (d) a right or an option in respect of a Marketable Security, whether issued or unissued, including any of the above;

"Permitted Chargee" means, in respect of the Lessee, a person of Investment Grade who provides financial accommodation ("financier") to the Lessee which is secured over the Lessee's right, title or interest in this Lease. It includes any person who takes and holds such security for the benefit of any financier and any person claiming through that person or under the security, (including any person acquiring those rights or any of them upon realisation of the security) who in each case, enters into, or authorises the entry into of, a Permitted Chargee Deed;

"Permitted Chargee Deed" means a deed between the Lessee, a Permitted Chargee and the Lessor on terms agreed by the Parties, acting reasonably, which terms will include:

- (a) Lessor to notify defaults under this Lease to any Permitted Chargee;
- (b) Lessor to allow reasonable period for Permitted Chargee to cure such defaults;
- (c) Lessor not to terminate this agreement if the Lessee's obligations under this Lease are performed; and
- (d) Permitted Chargee to give notice (prior notice where reasonable) to the Lessor before enforcing any security interest the subject of that Permitted Chargee Deed against the Lessee's right, title or interest in this Lease;

"Plan" means the plan of the Premises forming Schedule 1 to this Lease;

"Premises" means the Lessee's Property and the Land described in the panel appearing at the top of the first page of this Lease, including the substrata below the surface, comprising 5.956 hectares delineated in bold black lines on the Plan;

"Rates and Taxes" means any rate or tax, other than income or capital gains tax, exacted, levied, charged, imposed or assessed on the Lessor or the Lessee in relation to the Premises on whatever basis including, without limitation, charges, assessments, duties, fees and imposts whether local, State or Federal;

"Rent" means the sum of 570,000 dollars payable on the Commencement Date or the amount payable on the first day of any hold over period calculated in accordance with clause 21;

"Services" means all services supplied to or consumed on the Premises including, without limitation, water, sewerage, drainage, gas, electricity, oil, telephone and other electronic communication services and garbage removal;

"Sublease" means any sublease, underlease, tenancy, the parting with possession of or the granting of any licence or right to use, possess or occupy the Premises or any portion of the Premises or any agreement to sublease, underlease, possess or to grant a licence or right to use, possess or occupy but does not include any access to the Premises allowed by the Lessee or any access required by any contractor to the Lessee (or any sub-contractors engaged by such contractor) during the construction of the electricity generating plant on the Main Site;

"Term" means, subject to surrender or termination pursuant to the provisions of this Lease or by operation of law, the initial term of five (5) years commencing on the first Commencement Date together with such further period as the Lessee occupies the Premises with the consent of the Lessor.

2. INTERPRETATION

Subject to any contrary intention indicated by subject or context, the following rules of construction shall be used in the interpretation of this Lease.

- 2.1 Words denoting the singular number or plural number include the plural number and singular number respectively;
- 2.2 Words denoting any gender shall include all genders;
- 2.3 Headings are for convenience only and shall not affect interpretation;
- 2.4 Words denoting individuals shall include corporations and vice versa;
- 2.5 A reference to a recital, party, clause, schedule, appendix or annexure is a reference to a recital, party, clause, schedule, appendix or annexure of this Lease;
- 2.6 A reference to any Legislation shall be deemed to include all amendments thereto and all statutory provisions substituted hereafter;
- 2.7 The use of "or" shall be that of the inclusive "or", i.e. meaning one, some or all of the number of possibilities or alternative;

JMS 072486

- 2.8 All reference to "dollars" or the "\$" are to Australian dollars;
- 2.9 A reference to any Government agency in this Lease shall, if that agency ceases to exist or is reconstituted, renamed, replaced or its powers or function are transferred to or undertaken by another new or replacement agency, includes a reference to the association established or constituted in place of or succeeding to the powers or functions of the agency named in this Lease.

PART II - THE LESSEE'S COVENANTS, WARRANTIES & ACKNOWLEDGEMENTS

The Lessee covenants with the Lessor as follows in respect of the following matters:

3. PAYMENT OF THE RENT

- 3.1 The Lessee shall pay the Rent to the Lessor on the Commencement Date.
- 3.2 The Lessee shall, over the term of the lease undertake landscaping works and develop public amenities up to a total maximum value of \$300,000 which shall be refunded to the Lessee at the expiration of the initial 5 year term.

4. PAYMENT OF INTEREST

- 4.1 If any payment to be made by the Lessee to the Lessor pursuant to this Lease has not been made in full by the due date specified in this Lease or if the Lease does not specify a due date, within thirty (30) Business Days of the Lessor serving on the Lessee a written notice requiring payment of any such amount, then the Lessee shall pay interest on the unpaid amount of any such payment until payment in full is made to the Lessor.
- 4.2 All interest payable by the Lessee shall be paid within seven days of demand by the Lessor. Unpaid interest shall also accrue interest.
- 4.3 Interest shall be charged at the Interest Rate and calculated daily on the amount of the outstanding payment.
- 4.4 Any payment received after 4:00pm on a Business Day shall be deemed to have been received on the next Business Day for the purposes of the calculation of the amount of interest payable by the Lessee pursuant to this Lease.

5. PERMITTED USE

- 5.1 The Lessee may use the Premises, in accordance with this Lease, for the purpose of:
- (a) construction and other ancillary activities associated with the construction, installation, operation, maintenance, replacement or supplementing of the electricity generating station contemplated under any development approval in respect of the Premises and the Main Site ("the Station");
 - (b) the development of landscaping and public amenities required to improve the appearance of the Premises;
 - (c) the construction, installation, operation, maintenance, replacement or supplementing of cooling water intake and discharge piping and associated infrastructure ("cooling water-piping") connecting with the Station; and
 - (d) for any other purposes authorised by this Lease.
- 5.2 The Lessee shall not use the Premises for any other purpose.

6. PAYMENT OF CHARGES FOR SERVICES

- 6.1 The Lessee shall punctually pay, when due and notified to the Lessee in writing, all fees or charges for the installation, connection, supply, consumption, use or Rental of the Services.

6.2 The Lessor and the Lessee acknowledge that the Lessor is not liable or obliged to pay any cost, expense, fee or charge incurred or accrued by the Lessee in respect of the installation, connection, supply, consumption, use or Rental of any Service at any time during the Term.

7. PAYMENT OF RATES AND TAXES

7.1 Lessee shall punctually pay, during the initial Term of 5 years, all Rates and Taxes, including any land tax assessed on the Premises, when any such Rates and Taxes are due and payable as well as any fines, penalties or other charges levied or exacted if any such Rates and Taxes are not punctually paid provided the same are notified to the Lessee in writing.

7.2 The Lessor shall punctually pay, during any holding over period after expiration of the initial Term of 5 years Term, all Rates and Taxes, including any land tax assessed on the Premises, when any such Rates and Taxes are due and payable as well as any fines, penalties or other charges levied or exacted if any such Rates and Taxes are not punctually paid.

7.3 If the Premises are not separately rated for any one or more of the Rates and Taxes the Lessee shall pay, in accordance with this clause 7, such proportion of the same as the area of the Premises bears to the area of the land subject to the particular Rate and Tax.

8. PAYMENT OF GOODS AND SERVICES TAX

8.1 The Lessee shall punctually pay all goods and services taxes, value added taxes, consumption taxes or other similar taxes, duties, excises, surcharges, levies or imposts, now or at any time in the future imposed, charged or levied in respect of the Rent, any Services supplied to the Premises or this Lease.

8.2 (a) Notwithstanding any other provision in this Lease, if the imposition of a goods and services tax ("GST") or any subsequent change in the GST law is accompanied by or undertaken in connection with the abolition of or reduction in any existing taxes (including income tax), duties or statutory charges ("Taxes"), the consideration (excluding any GST) payable by the Lessee under this Lease will be reduced by the same proportion as the actual total costs of the Lessor (including any Taxes but excluding any input GST paid or payable by the Lessor) are reduced as a result of the abolition of or reduction in Taxes, whether directly by way of the abolition of or reduction in Taxes paid or payable by the Lessor to its suppliers or to an government, or indirectly by way of a reduction in the prices (excluding any GST) charged by the suppliers to the Lessor.

(b) In this Lease, where a party is required to reimburse the other for any costs or other amount, (the "Costs"), the Costs are taken to be the actual amount or costs incurred less the amount of any GST input tax credit or similar rebate which can be claimed. Further if the party to be reimbursed is liable to GST by virtue of the receipt of the reimbursed amount, the party reimbursing shall, in addition to the reimbursed amount, pay to the party to be reimbursed an amount equal to the GST incurred by the party to be reimbursed.

(c) In this Lease, when determining the amount of any indemnity payment payable, the amount of any liability, cost and or expense incurred by the party to be indemnified means the actual amount incurred less the amount of any GST input tax credit or similar rebate which can be claimed by the party to be indemnified in respect of that liability, cost and or expense. Further, if the party to be indemnified is liable to GST by virtue of the receipt of the indemnity amount, the party indemnifying shall, in addition to the indemnity amount, pay to the party to be indemnified an amount equal to the GST incurred by the party to be indemnified.

9. CONDITION OF THE PREMISES

The Lessee shall at all times keep the Premises free from all rubbish.

10. PEST CONTROL

The Lessee shall take all reasonable precautions to keep the Premises free of rodents, vermin and pests.



11. STATUTORY COMPLIANCE

- 11.1 The Lessee shall maintain and comply with all licences, permits, consents, approvals or registrations required under any legislation which are necessary to carry on the Lessee's activities at the Premises.
- 11.2 The Lessee shall observe and comply with all Legislation governing its activities at the Premises.
- 11.3 The Lessee shall comply with all statutory notices or directions issued in relation to its activities on the Premises by any government agency with jurisdiction over the Premises or the activities of the Lessee at the Premises.

12. LESSOR'S INSPECTION

Upon the Lessor giving at least seven (7) Business Day's notice in writing to the Lessee of his intention to do so, the Lessee shall permit the Lessor or any of the Lessor's duly authorised employees, agents or contractors to enter the Premises at reasonable times to examine and view their condition. The Lessor shall be accompanied by an officer of the Lessee and the Lessee shall make one of its officers available for the purpose of the Lessor's inspection. The Lessor may, by a written notice served on the Lessee, require the Lessee, within a reasonable time which is specified in any such notice, to remedy any breach by the Lessee of its obligations contained in this Lease. If the Lessee fails to comply with that notice then the Lessor may, but shall not be obliged to remedy the Lessee's breach at the cost and expense of the Lessee. The Lessee shall, forthwith upon its receipt of the Lessor's written demand, pay to the Lessor all moneys reasonably expended by the Lessor in remedying the Lessee's breach.

13. RELEASE

The Lessee agrees to occupy, use and keep the Premises at its own risk in all things including, without limitation, releases and discharges to the extent permitted by law, the Lessor and his employees, agents, contractors or invitees from Claims of every kind including, without limitation, either any Claim in respect of any accident or damage to property or death of or injury to any person of any nature on the Premises or any Claim in respect of loss of or damage to the Lessee's Property or personal property of the Lessee or any other person provided that the Lessee shall not be released from liability for any loss or damage suffered or caused by the Lessor's negligent or willful act or default.

14. INDEMNITY

The Lessee shall indemnify and keep indemnified the Lessor and its employees, agents and contractors from and against all Claims which the Lessor or its employees, agents or contractors may suffer or incur to any person in relation to the Premises or with any act, matter or thing done or performed by the Lessee or its employees, agents, contractors, invitees, visitors or other persons using or upon the Premises or any omission of the said persons including, without limitation, any Claim for damages in respect of any loss of or damage to property, for the death of or injury to any person, for private or public nuisance, environmental damage or contamination or otherwise in contract, tort or any other civil cause of action or civil liability provided that the Lessee shall not be required to indemnify the Lessor for loss, damage or injury suffered or caused by the Lessor's negligent or willful act or default.

15. ABILITY TO ASSIGN OR ENCUMBER THIS LEASE OR GRANT SUBLEASES

- 15.1 The Lessee shall not assign, convey, transfer, Sublease or otherwise deal with the benefit of this Lease or the Lessee's interest in the Premises pursuant to this Lease without the Lessor's prior written consent, which consent shall not be unreasonably withheld if each of the following conditions is satisfied:
- (a) the Lessee is not in breach of an essential term of this Lease as at the date at which the Lessor's consent is being sought such that any such breach is either a breach which the Lessee has not remedied as at that date after receiving a notice to remedy or a breach of which the Lessor is not actually aware as at that date;
 - (b) the permitted use of the Premises in subclause 5.1 is to continue;
 - (c) the proposed assignee or sublessee (as the case may be) is a respectable, responsible, solvent, fit and suitable person of good financial standing capable of carrying out the obligations of the Lessee under this Lease;

- (d) the Lessee provides to the Lessor such information, documentary or otherwise, relating to the proposed assignee as may be reasonably required by the Lessor;
- (e) in the case of an assignment, the Lessee procures the assignee to execute and deliver to the Lessor an assignment of this Lease and a covenant, for the benefit of and enforceable by the Lessor, to perform, observe and comply with all of the provisions of this Lease in such a form as the Lessor and its solicitors may reasonably require. The Lessee agrees that it shall not be released upon assignment; and
- (f) in the case of a Sublease, the Lessee procures the sublessee to execute and deliver to the Lessor a deed of covenant, for the benefit of and enforceable by the Lessor, to perform, observe and comply with all of the provisions of this Lease in such form as the Lessor and its solicitors may reasonably require.
- (g) the Lessee will pay to the Lessor promptly on demand all legal and other advisor's costs incurred by the Lessor in considering the Lessee's request for consent.

Despite any other provision of this Lease, for the purposes of securing financial accommodation, the Lessee may mortgage, charge, pledge or assign by way of security its rights under this Lease without the consent of the Lessor provided that the Permitted Chargee enters into a Permitted Chargee Deed (and the Lessor agrees to enter into such an agreement on terms reasonably acceptable to it).

15.2 If the Lessee is a corporation as defined by the Corporations Act 1989 then:

- (a) the issue of any share or shares or the transfer of legal or beneficial ownership of or in any share or shares in the issued capital of the Lessee altering the effective control of the Lessee; or
- (b) any change altering the effective control or direction of the board of directors thereof; or
- (c) any variation or change to the Articles of Association thereof whereby the rights attaching to the issued shares therein are varied,

shall be deemed to be an assignment of this Lease requiring the consent of the Lessor.

15.3 If the Lessee is the trustee of a trust of which the estate or interest conferred under this Lease is an asset:

- (a) any transfer assignment or conveyance of legal or beneficial ownership or entitlement under such trust; or
- (b) the allotment of any units or entitlement in such trust; or
- (c) any variation or change to the instrument pursuant to which such trust was constituted whereby the rights and benefits thereunder are varied or any new beneficiaries or class or classes of beneficiaries are added,

shall be deemed an assignment of this Lease requiring the consent of the Lessor.

15.4 Nothing in this Clause 15 applies to a Permitted Disposal which occurs more than 3 years after the date of this Lease. A Permitted Disposal means:

- (a) a Disposal of any Marketable Securities in the Lessee where:
 - (i) National Power PLC retains a 50.1% interest (direct and indirect) in the ordinary share capital of the Lessee; and
 - (ii) the Lessee retains operational control of the power plant situated on the Main Site and has continuing access to the technical skills and expertise of National Power PLC; or
- (b) the entry into by the Lessee of any partnership or joint venture (or other form of consortium) in relation to the power plant situated on the Main Site where:
 - (i) National Power PLC retains (directly or indirectly) a 50.1% beneficial interest in the power plant situated on the Main Site; and
 - (ii) the Lessee retains operational control of the power plant situated on the Main Site and has continuing access to the technical skills and expertise of National Power PLC.

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16. ENJOYMENT AND USE OF THE PREMISES

The Lessee shall permit and not obstruct or impede the Lessor, any of its duly authorised employees, agents, contractors, invitees or any other authorised person from having access to and using the Premises pursuant to clause 23.

17. INTERFERENCE WITH NAVIGATION

17.1 The Lessee shall not conduct or engage in any activities at, or in the vicinity of, the Premises including, without limitation, construction or installation of the Lessee's Property, which will or are likely to interfere with navigation in the Port Adelaide River or Gulf St. Vincent except with the consent of the Lessor, which consent shall not be unreasonably withheld.

17.2 The Lessee shall promptly give to the Lessor written notice of any event or occurrence caused by the activities of the Lessee or any third parties, of which the Lessee is or should reasonably be aware, at the Premises which is reasonably likely to have an adverse impact on navigation activities in the Port Adelaide River or Gulf St. Vincent.

18. YIELDING UP

Subject to clause 20, the Lessee shall surrender peaceably and yield up the Premises to the Lessor upon the expiration of the Term or earlier surrender or termination of this Lease such that the Premises are clean, free of rubbish and free of contaminating substances which create a risk to public health and safety or the environment provided that the Lessee is not required to ameliorate any contamination to the extent it has been allowed to remain on the Premises in accordance with clause 25.3.

19. GRANTING OF EASEMENT

(NOT USED)

20. REMOVAL OF LESSEE'S PROPERTY

20.1 At or prior to the expiration of the Term or the surrender or partial surrender or early termination of the Lease, the Lessor may elect, by written notice to the Lessee, to have the Lessee remove all of the Lessee's Property from the Land or any items of the Lessee's Property specified in the notice but excluding any landscaping effected to the Premises with the Lessor's agreement and all cooling water intake and discharge piping and associated infrastructure over which an easement is granted in accordance with Clause 19.

20.2 If the Lessor makes an election, under subclause 20.1 the Lessee may hold over the Premises for a period of up to six (6) months to complete the works specified in the notice with Rent during the hold over period calculated in accordance with clause 21.

20.3 The Lessee, in any such removal of the Lessee's Property, shall make good any damage the Premises.

20.4 If the Lessee fails to remove the Lessee's Property in accordance with this clause, then the Lessor may, in its absolute and unfettered discretion, elect as follows:

- (a) to remove all, or those items as the Lessor may choose, of the Lessee's Property from the Premises, to sell or otherwise dispose of, in such manner as the Lessor considers appropriate, of such items of the Lessee's property, to retain absolutely and beneficially any proceeds received by the Lessor from any such sale or other disposal and to recover from the Lessee, the Lessor's reasonable costs incurred in any such removal, sale or other disposal together with any reasonable costs incurred by the Lessor in repairing any damage to the Premises reasonably caused by any such removal; or
- (b) to elect that all of the Lessee's right, title and interest in the Lessee's Property not so removed shall vest in the Lessor absolutely and the Lessor shall not be liable, in any way or manner, to pay to or to hold as trustee for the Lessee any proceeds received by the Lessor from the sale or other disposal of the Lessee's Property or to otherwise compensate the Lessee in respect of any such Lessee's Property provided that the proceeds

of any sale of the Lessee's property will be deducted from the amount owing by the Lessee to the Lessor under this Lease.

- 20.5 The Lessee shall pay forthwith, upon receiving a written notice to this effect served by the Lessor, the amount demanded by the Lessor in respect of any costs and expenses it has reasonably incurred in removing, selling or otherwise disposing of the Lessee's Property or any item of the Lessee's Property, in repairing any damage reasonably caused to the Premises in any such removal or disposal or any reasonable cost or expense incidental to the foregoing. If the Lessee fails to pay any such amount in accordance with this subclause, then the Lessor may institute legal proceedings against the Lessee to recover any such costs and expenses as a debt.
- 20.6 The parties agree that, to the extent permissible any law relating to the retention, removal, sale or disposal of any property, including in relation to unclaimed or abandoned goods, shall not apply, as between the Lessor and the Lessee, in relation to any retention, removal, sale or other disposal of any of the Lessee's Property pursuant to this clause.
21. **HOLDING OVER**
- 21.1 The Lessee may, provided that the Lessor has not served notice on the Lessee under clause 20.1, hold over after the expiration of the initial Term for so long as the Lessee continues to carry on business on the Main Site, in which event clauses 21.2 to 21.7 inclusive shall apply.
- 21.2 The Lessee shall be a monthly tenant of the Lessor and no tenancy from year to year or longer period shall be implied by the payment or acceptance of Rent. The said monthly tenancy shall be terminable by the Lessor or the Lessee at any time by the giving one (1) calendar month's notice in writing except during any hold over period permitted by subclause 20.2.
- 21.3 The monthly Rent payable by the Lessee during the term of any such monthly tenancy shall be equal to one percent (1%) of the fair market value of the freehold interest in the Land only, based on:
- (a) its highest and best use; and
 - (b) an assumption that none of the Lessee's Property was present at the Premises.
- 21.4 The Lessee shall during the period of the Lessee's occupancy of the Premises under this clause maintain all landscaped areas and community facilities on the Premises. The monthly Rent payable by the Lessee under sub-clause 21.3 shall be reduced by an amount equal to the reasonable costs incurred in the previous month (to a maximum of \$25,000 in any twelve month period) by the Lessee in relation to maintaining landscaping on the Premises and the provision of any community amenities. The reduction allowed by this subclause is not to operate in any month so as to reduce the rent in that month to below zero. The Lessee will produce to the Lessor invoices for costs incurred by the Lessee.
- 21.5 For the purposes of subclause 21.3, the value of the Land shall be determined, at the Lessor's option, by the Valuer-General or by an independent licensed valuer appointed by the Lessor. The Rent may at the Lessor's option be reviewed at the expiration of succeeding periods of 5 years.
- 21.6 During the period of the Lessee's occupation of the Premises under this clause the Lessee shall only be entitled to exclusive use of that portion of the Premises necessary for it to construct, install, maintain, operate, replace and supplement the cooling water intake and the discharge piping and associated infrastructure which services the electricity generating plant located in the Main Site.
- 21.7 Subject to this clause, the provisions of this Lease shall apply, with the necessary changes, during the period of any such holding over.

PART III - THE LESSOR'S COVENANTS, WARRANTIES & ACKNOWLEDGMENTS

The Lessor covenants with the Lessee as follows in respect of the following matters.

22. QUIET ENJOYMENT

The Lessor covenants that, subject to the Lessee paying the Rent and performing and observing the Lessee's obligations under or pursuant to this Lease, the Lessee may peaceably possess and enjoy the Premises for the Term without any interruption or disturbance from the Lessor or any other person lawfully claiming from or under the Lessor except to the extent specifically provided for in this Lease.

23. LESSOR'S USE OF THE PREMISES

23.1 The Lessor or its duly authorised employees, agents, contractors or invitees may, at any time during the Term, upon giving reasonable notice to the Lessee, enter upon, use or occupy the Premises, with or without vehicles, plant, equipment or materials, to the extent necessary for or incidental to any of the following purposes:

- (a) to fulfill or perform any statutory duty, obligation, or function of the Lessor;
- (b) to fulfill or perform any obligation under this Lease which the Lessee has failed to perform;
- (c) to conduct foreshore protection operations, including any works, or dredging;
- (d) to perform maintenance over and above any maximum amount that the Lessee undertakes under this Agreement; and
- (e) to do any other matter or thing necessary in relation to the foregoing.

23.2 The Lessor shall promptly inform the Lessee of any dredging works that may be required under 23.1(c), to be undertaken by the Lessor or to be undertaken by any other Government Agency or individual who informs the Lessor of its intention to do so.

23.3 The Lessor shall use reasonable endeavours to minimise any disturbance or disruption to the conduct of the Lessee's use of the Premises.

23.4 The Lessor shall, from time to time, consult with the Lessee concerning the Lessor's plans or proposals to undertake any activities in or on the Premises which are reasonably likely to materially disturb or disrupt the Lessee's use of the Premises. The Lessor shall not undertake any activity in or on the Premises which may cause damage to the cooling water intake, discharge piping or any associated infrastructure which services the power station located on the Main Site.

24. LESSOR'S INDEMNITY

The Lessor shall indemnify and keep indemnified the Lessee and its employees, agents and contractors from and against all Claims which the Lessee or its employees, agents or contractors may suffer or incur to any person as a consequence of or in connection either with the use of the Premises by the Lessor pursuant to subclauses 23.1(a), 23.1(c) and 23.1(d) and in so far as it relates to those sub-clauses, 23.1(e), but not under 23.1(b) or with any act, matter or thing done or performed by the Lessor or its employees, agents, contractors, invitees, visitors or other persons using or upon the Premises or any omission of the said persons including, without limitation, any Claim for damages in respect of any loss of or damage to property within the Premises, for the death of or injury to any person on the Premises but excepting any Claim caused by or as a consequence of the occupation or use of the Premises by the Lessee or its employees, agents or contractors.

PART IV - MUTUAL COVENANTS

The Lessor and the Lessee mutually covenant as follows in respect of the following matters.

25. CONTAMINATION

25.1 The Lessee may undertake investigations to determine whether the Premises or the Main Site are contaminated with any substances in concentrations which, as determined by the Environment Protection Authority, cause an unacceptable risk to the environment or to the health of any persons, other than construction workers, likely to use

the Premises or the Main Site ("future occupants") for the purposes permitted by subclause 5.1 or the purpose of the construction, installation, operation, maintenance, replacement or supplementing of the Station.

25.2 Subject to Sub-clause 25.3, if the Environment Protection Authority determines that all or part of the Premises or the Main Site are contaminated in a manner which causes an unacceptable risk to the environment or the health and safety of future occupants, the Lessee will at its cost cause and procure the following work to be done:

- (a) remove any of the contaminating substances which the Environment Protection Authority determines should be removed from the Land or Main Site; or
- (b) reduce the concentrations of any contaminating substances to acceptable levels as determined by the Environment Protection Authority.

The Lessor must reimburse the Lessee for its reasonable costs and expenses in carrying out such works in respect of the Premises and the Main Site if such contamination occurred prior to commencement of this Lease.

25.3 If the Environment Protection Authority determines that the risk caused by contamination substances can be adequately managed by covering the contaminating parts of the Premises with soil, fill or impermeable materials, the Lessor shall not be responsible for these costs if these works are to be carried out by the Lessee in the course of development or construction of the Premises.

26. TERMINATION

26.1 If the Lessee ceases to conduct business on the Main Site for a period longer than one (1) year then the Lessor may serve a written notice requiring surrender at the expiration of one (1) year from the date of the notice unless the Lessee continues to conduct business by that date. If the Lessee fails to surrender then the Lessor may, by the service of written notice terminate the Lease three (3) months after service of that notice.

26.2 If the Lessee is in breach of any of its obligations under this Lease then the Lessor may:

- (a) serve on the Lessee a notice to remedy that breach within 2 months; and if required
- (b) serve a second notice to remedy such a breach within a 2 month notice period if the breach is not remedied under the first notice.

26.3 If the Lessee does not remedy a breach as required in the Lessor's notice the Lessor may do any one or more of the following:

- (a) the Lessor may, by the service of a written notice, terminate this Lease in one (1) month and enter into exclusive possession of the Premises;
- (b) the Lessor may, by the service of a written notice, require that the Lessee surrender this Lease forthwith;
- (c) the Lessor may, but is not obliged to, remedy any such breach and recover any costs and expenses he may incur from the Lessee as a debt;
- (d) the Lessor may institute legal proceedings for injunctive or any other appropriate form of remedy or relief to enforce the Lessee's performance of the provisions of this Lease; or
- (e) the Lessor may sue the Lessee for any damages the Lessor has sustained or incurred.

26.4 In respect of the Lessee's obligation to pay Rent, the acceptance by the Lessor of arrears or of any late payment of Rent shall not constitute a waiver of the essential and fundamental nature of the Lessee's obligation to pay Rent in respect of those arrears or of the late payments or in respect of the Lessee's continuing obligation to pay Rent during the Term of this Lease.

26.5 In the event that the Lessee's conduct (whether acts or omissions) constitutes a breach of any Lease covenants, the Lessee covenants to compensate the Lessor for the loss or damage suffered by reason of such breach and the Lessor's entitlement to recover damages shall not be affected or limited by any of the following:

- (a) If the Lessee shall abandon or vacate the Premises;

- (b) If the Lessor shall elect to re-enter or to terminate the Lease;
- (c) If the parties' conduct shall constitute a surrender by operation of law.

- 26.6 In the event of the Lessee vacating the Premises, whether with or without the Lessor's consent, the Lessor shall be obliged to take reasonable steps to mitigate its loss. The Lessor's entitlement to damages shall be assessed on the basis that the Lessor should have observed the obligation to mitigate its loss contained in this paragraph. The Lessor's conduct taken in pursuance of the duty to mitigate loss shall not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.
- 26.7 The costs of and incidental to the recovery of Rent due and unpaid interest thereon and the Lessor's costs and expenses incurred by remedying or attempting to remedy any breach of the Lessee's covenants herein contained including but without limiting the generality thereof reasonable professional charges workmen's wages and the amount paid by the Lessor by way of damages and penalties resulting from such breach whether by law or otherwise shall be deemed to be and it is hereby agreed that they shall be treated as additional Rent falling due and payable on the date on which such Rent interest costs expenses wages charges damages or penalties become due and owing attaching thereto the Lessor's rights and remedies under this Lease expressed or implied by law or statute for the recovery of Rent.
- 26.8 The Lessor may set off any money due and outstanding by the Lessee to the Lessor in whole or in part against any money which may from time to time be payable by the Lessor to the Lessee on any account whatsoever whether under this Lease or otherwise AND the Lessor may apply and set off any money paid by the Lessee whether in payment of Rent Outgoings or otherwise against any money of whatsoever nature then due and payable by the Lessee without any obligation to set off against the oldest debt or against Rent in priority to any other debt.
- 26.9 Any termination of this Lease pursuant to this clause or otherwise at law shall be without prejudice to any right, entitlement, cause of action, or remedy which has accrued or which relevant event or state of affairs prior to subsequent to or as a consequent of the termination of this Agreement.

27. RETAIL AND COMMERCIAL LEASES ACT

The Lessee and the Lessor mutually acknowledge and agree that the Premises do not comprise business Premises at which goods are sold to the public by retail or at which services are provided to the public or to which the public is invited to negotiate for the supply of services and that the Retail and Commercial Leases Act 1995 does not apply to this Lease.

PART V - GENERAL

The Lessor and the Lessee covenants as follows in respect of the following matters

28. EMPLOYEES & AGENTS

Any act, matter or thing which either is required to be performed or done by a party or is permitted to be performed or done by a party may be performed or done by a party's duly authorised employees, agents, delegates or contractors.

29. FURTHER ASSURANCES

The parties shall do all acts, matters and things and sign all documents and shall cause to be done all acts necessary to give full effect to the terms of this Lease.

30. ENTIRE AGREEMENT

This Lease, the Easement and any other written agreement between the parties relating to this Premises contains the entire agreement between the parties in respect of the subject matter of this Lease. The parties agree that this Lease supersedes and extinguishes any prior agreement or understanding (if any) between the parties in respect of this subject matter. Further, no other agreement, whether collateral or otherwise, shall be taken to have been

formed between the parties by reason of any promise, representation, inducement or undertaking (if any) given or made by one party to the other prior to the date of this Lease.

31. WAIVER

- 31.1 A waiver of a provision of this Lease must be in writing and be signed by each party or by a person duly authorised to execute such a document on behalf of a party.
- 31.2 No waiver by a party of a breach of a provision of this Lease shall operate as a waiver of another breach of the same or of any other provision of this Lease.
- 31.3 No forbearance, delay, indulgence or partial exercise by a party in enforcing the provisions of this Lease shall be a waiver of or prejudice or restrict the rights of that party in any way.

32. MODIFICATION

This Lease shall not be amended or varied other than by a written instrument expressed both to be a deed and to be supplemental to or in substitution for the whole or a part of this Lease. Further, any such instrument shall be signed by each party or by a person duly authorised to execute such an instrument on behalf of a party.

33. READING DOWN & SEVERANCE

- 33.1 If a sentence, subparagraph, paragraph, subclause, clause or other provision of this Lease is reasonably capable of an interpretation which would render that provision not to be unenforceable, illegal, invalid or void and an alternative interpretation which would have one or more of those consequences, then that provision shall be interpreted or construed, so far as is possible, to be limited and read down such that its meaning is that which does not render it unenforceable, illegal, invalid or void.
- 33.2 Subject to subclause 33.1, if a provision of this Lease is for any reason, illegal, void, invalid or unenforceable, then that provision shall be severed from this Lease without affecting the legality, validity or enforceability of the remainder of this Lease.

34. PERFORMANCE OF THE LESSOR'S OBLIGATIONS

- 34.1 The Lessor may subcontract or otherwise procure the performance, on his behalf, by any person of any of the Lessor's obligations under or pursuant to this Lease.
- 34.2 Clause 34.1 shall operate and shall be construed as operating without prejudice to and as not detracting from either the Lessee's rights, powers, entitlements or remedies or the Lessor's obligations under or pursuant to this Lease.

35. CONSENTS & APPROVALS

Subject to any express provision of this Lease, the Lessor may, in his absolute and unfettered discretion, grant or withhold any direction, consent, approval or permission required to be given under or pursuant to this Lease and may impose such terms and conditions on any such direction, consent, approval or permission as the Lessor considers appropriate.

36. CUMULATIVE RIGHTS

A right, power or remedy granted to a party under or pursuant to this Lease is cumulative with, without prejudice to and not exclusive of any other right, power or remedy either granted under or pursuant to this Lease or granted by law.

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37. RELATIONSHIP BETWEEN THE LESSOR & THE LESSEE

- 37.1 The Lessor and the Lessee acknowledge and agree that their relationship pursuant to this Lease shall be exclusively that of independent contractors in the relationship of Lessor and Lessee in respect of the Premises with the several rights, liabilities, duties and obligations set out in this Lease. Nothing contained in this Lease shall be deemed or construed to constitute the Lessor to be a partner, joint venturer, principal, agent, trustee (whether express, implied or constructive), beneficiary, lender, borrower, sub-lender, sub-borrower or fiduciary of the Lessee and vice versa.
- 37.2 No party has the authority to act for or to incur any liability or obligation pursuant to this Lease as agent for and on behalf of any other party except as expressly provided in or contemplated by this Lease.
- 37.3 Each party shall indemnify and keep indemnified the other from and against all Claims arising as a consequence of one party incurring any obligations or liabilities for and on behalf of the other party in the manner proscribed by Clause 37.2 and otherwise than pursuant to this Lease or with the express written consent of the other party.

38. NOTICES

- 38.1 Any notice to be given or made pursuant to the provisions of this Lease shall be in writing and may be signed by the authorised agent of the party giving the same.

- 38.2 Notices may be served by delivery, mail or facsimile transmission to the following addresses and numbers:

- (a) To the Lessor:

The General Manager
South Australian Ports Corporation
296 St Vincent Street
PORT ADELAIDE SA 5015
Facsimile: (08) 8447 0605

- (b) To the Lessee:

National Power Australia Pty Ltd
Pelican Point Project Manager
Level 26
Australia Square
264 - 278 George Street
SYDNEY NSW 2000
Facsimile: (02) 9252 2680

- 38.3 All such notices and communications shall be effective and be deemed to have been received in the following circumstances:

- (a) if delivered, upon delivery;
- (b) if sent by mail, upon posting; or
- (c) if sent by facsimile transmission, upon the sender's facsimile machine producing a transmission report that the facsimile was sent to the addressee's facsimile number.

- 38.4 A party may modify either its address or its facsimile number, from time to time, by a written notice served on the other party.

39. COSTS

Each party shall bear their own costs incurred in and incidental to the negotiation, preparation and execution of this Lease. The Lessee will pay all stamp duty and registration fees in relation to this Lease.

40. PROPER LAW

40.1 The proper law of this Lease shall be the law of South Australia and accordingly this Lease shall be governed by and construed in accordance with the laws of the said State.

40.2 The parties irrevocably covenant for the benefit of each other that the courts of the State of South Australia shall have jurisdiction to hear and determine any suit, action or proceeding and to settle any disputes which may arise out of or in connection with this Lease and for such purposes the parties irrevocably submit to the non-exclusive jurisdiction of such courts. Further, the parties mutually covenant that they shall each not institute or attempt to institute any litigious proceedings in respect of any matter or thing arising out of or in connection with this Lease other than either in a court of the State of South Australia or in the Adelaide Registry of any Federal court. Each party acknowledges that the courts of South Australia constitute the most convenient forum to hear and determine any such suits, actions, proceedings or disputes. Furthermore, each party waives any right it has to object to an action being brought in these courts, to claim that the action has been brought in an inconvenient forum or to claim that these courts do not have jurisdiction. The parties further agree that any suits, actions, disputes or other litigious proceedings brought in a Federal court shall be instituted in the Adelaide Registry of any such Federal court.

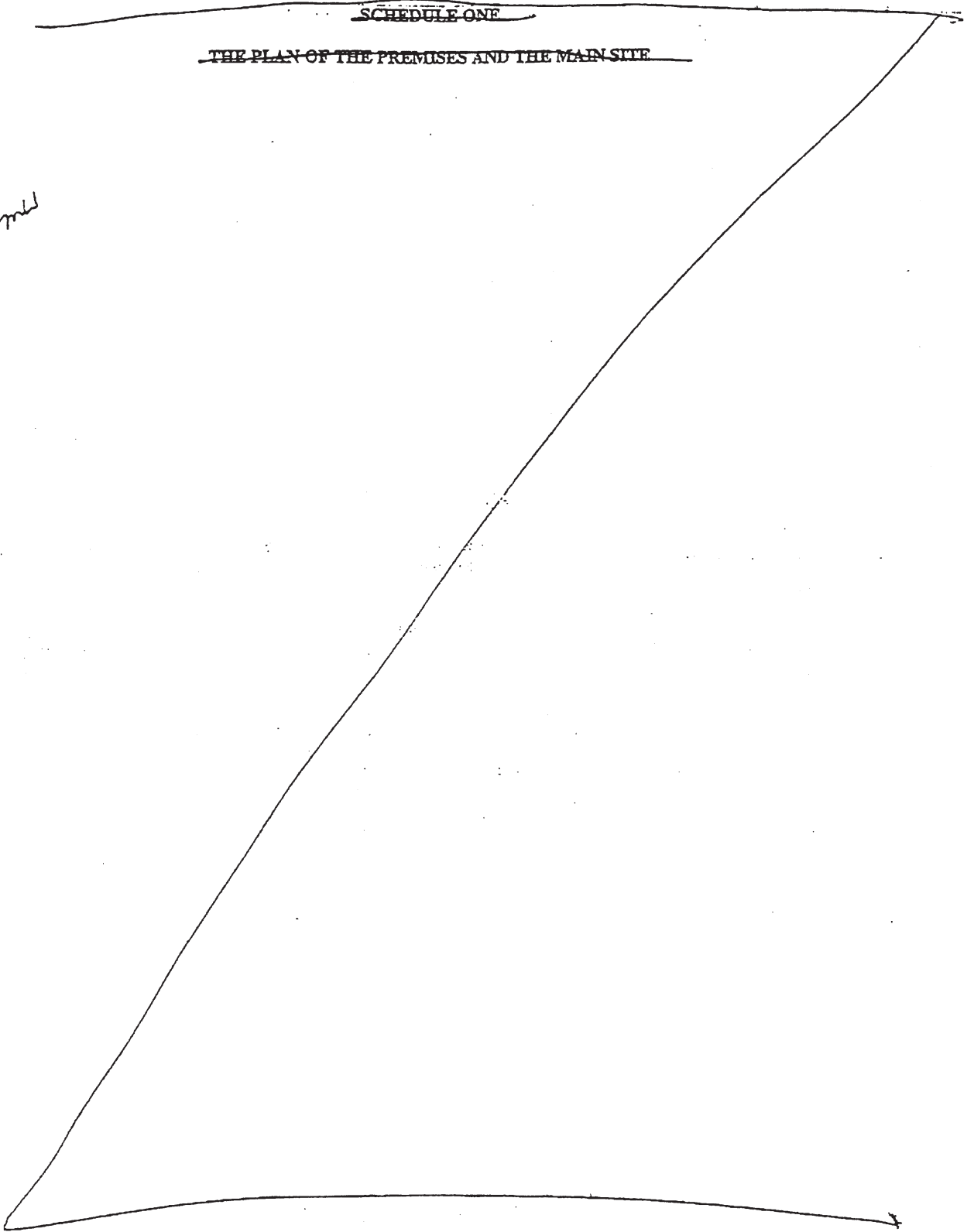
41. INSURANCE

41.1 The Lessee shall effect and keep current during the Term of this Lease and any renewal thereof and any period of holding over in the joint names of the Lessor and the Lessee for the respective rights and interests with a reputable and solvent insurer a policy of insurance in respect of the premises and the Lessee's Property erected or located thereon in respect of public risk for an amount of not less than \$25 million in respect of any single accident or event (or such greater amount as the Lessor shall from time to time reasonably require and notify the Lessee in writing), such policy to indemnify the Lessor against any and all actions, suits, claims and demands of any kind arising from the use by the Lessee and its employees, agents, contractors and invitees of the Premises. The Lessee shall on demand from or on behalf of the Lessor deliver to the Lessor a copy of such insurance policy and a copy of a receipt of the payment of all premiums or a copy of the certificate of currency in respect of such insurance.

~~SCHEDULE ONE~~

~~THE PLAN OF THE PREMISES AND THE MAIN SITE~~

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SCHEDULE TWO
EASEMENT
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6. PERMITTED CHARGE DEEDS SUMMARY

1. Description of Parties

There are four Permitted Chargee Deeds, one in relation to each of the Implementation Agreement, Pelican Point Gas Supply Agreement, Retail Agreement and Foreshore Lease (each a *Relevant Agreement*).

Each of the Permitted Chargee Deeds are dated 30 April 1999 and are between:

The relevant *State Party* (in the case of the Implementation Agreement, the Treasurer of South Australia on behalf of the State of South Australia; in the case of the Pelican Point Gas Supply Agreement, Terra Gas Trader Pty Ltd; in the case of the Retail Agreement, ETSA Power Pty Ltd; in the case of the Foreshore Lease Agreement, South Australian Ports Corporation);

AND

NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED (ARBN 086 411 814) (the *Developer*);

AND

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED, (ACN 005 357 522) (the *Agent* in its capacity as agent for the Financiers under the Project Facility Agreement);

AND

ANZ CAPEL COURT LIMITED (ACN 004 768 807), (the *Security Trustee* in its capacity as trustee of the Pelican Point Security Trust established under the Security Trust Deed.)

2. Material Deliberately Excluded from Summary by Reason of Confidentiality

Nil.

3. List of Contents

The table of contents for each of the Deeds are attached as Annexures 1 to 4 to this Summary.

4. Structure of Agreements

Each of the Permitted Chargee Deeds are in similar terms, the differences being:

- the identity of the relevant State Party;
- the Relevant Agreement (Implementation Agreement, Gas Supply Agreement, Retail Agreement or Foreshore Lease) to which it relates;
- other differences as highlighted in section 13.

Sections 5-12 and 14 of the summary below is relevant to each of the deeds and section 13 summarises matters unique to particular deeds.

Note that whilst National Power PLC is not a party to any Permitted Chargee Deed it is a party to the Implementation Agreement (but not to any of the other Relevant Agreements) and as such is referred to in various clauses in the Permitted Chargee Deed relating to the Implementation Agreement in conjunction with the Developer (e.g. “the Developer and the Sponsor”).

5. Purpose of the Deeds

The recitals of the deed recognise:

- The Developer has entered into the Relevant Agreement with the State Party.
- The Developer has requested the Initial Financiers provide financial accommodation to partially finance the Pelican Point Power Station.
- Before the Initial Financiers provide that, the Developer is to grant to the Security Trustee security over all the right, title and interest of the Developer in the Relevant Agreement.

6. Obligations

6.1 Precedence of obligations

To the extent of any inconsistency the deed takes precedence over the Relevant Agreement.

6.2 Rights and obligations

- The duties, obligations and liabilities of the State Party and the Developer are several.
- The rights of the Agent and the Security Trustee are several.

(Clauses 1.6 and 1.7)

7. Representations and Warranties

7.1 General representations and Warranties

The State Party and the Developer each represent and warrant to the other parties that:

- it has power to enter into and perform the deed;
- it has taken all necessary action to authorise the entry into and performance of the deed;
- the deed is valid and binding;
- its execution and performance of the deed did not and will not violate any law; and
- (in respect of the State Party only, to the best of its knowledge and belief,) no default under the Relevant Agreement has occurred and is continuing.

7.2 Entire agreement

The Developer represents and warrants to the Agent and the Security Trustee that the Relevant Agreement (and documents expressly referred to in it) is the entire agreement between the State Party and the Developer.

(Clause 2)

8. Consent and Acknowledgements

8.1 Developer and State Party consent

The Developer and the State Party acknowledge that the deed is only for the benefit of the Agent, the Security Trustee and the State Party.

8.2 Developer notice

The Developer gives notice to the State Party that the Developer will create Security Interests in favour of the Security Trustee over all of the Developer's present and future right, title, benefit and interest in and to the Relevant Agreement and the Developer's assets.

8.3 State Party's acknowledgements

The State Party acknowledges:

- its consent is not required before the Developer grants Security Interests to the Security Trustee provided the deed is entered into and the Financier is of Investment Grade (it being accepted the Initial Financiers are so) when the Security Interests are granted and further that any such Security Interest is a Permitted Security Interest.
- that it has not received notice of any other Security Interest;
- neither the entry into, nor the exercise of any power under, any Security Document or the Project Facility Agreement will of itself be a default under the Relevant Agreement;
- any Enforcing Party may exercise any power of the Developer and perform any obligation of the Developer under the Relevant Agreement.

8.4 Change in Financier's credit rating

The deed will not cease to be a Permitted Chargee Deed by reason only that a Financier subsequently ceases to be of Investment Grade.

8.5 No obligation of Agent/Security Trustee

Save in respect of any obligation expressly assumed by the Security Trustee in accordance with the deed, the State Party acknowledges that the Agent and Security Trustee do not assume any responsibility as to the Relevant Agreement by reason of any Security Document or the deed.

(Clause 3)

9. State Party's Covenants

9.1 Termination

The State Party undertakes to the Agent and the Security Trustee that it will not terminate the Relevant Agreement other than in accordance with the deed.

9.2 Notifications by the State Party

The State Party undertakes to the Agent and the Security Trustee that it will promptly give them notice:

- of default under the Relevant Agreement; and
- of disposal (prior if reasonable).

9.3 Agent's and Security Trustee's cure rights prior to termination

The State Party:

- may not terminate the Relevant Agreement unless it has given notice of default to the Agent and Security Trustee and it is not remedied within 90 days of receipt;
- acknowledges that anyone may remedy any default by the Developer under the Relevant Agreement but nothing obliges the Agent or Security Trustee to do so; and
- acknowledges neither the Agent nor the Security Trustee, as such, is liable for any default or other failure by the Developer to observe its obligations under the Relevant Agreement.

9.4 Material Amendments etc to Relevant Agreement

The Developer agrees with the Agent and Security Trustee it will not amend any or waive any material term of the Relevant Agreement without the consent of the Agent (not to be unreasonably withheld).

(Clause 4)

10. Enforcement

10.1 Appointment and Rights of Enforcing Party

The Security Trustee may appoint an Enforcing Party and that, of itself, is not a default under the Relevant Agreement.

The Security Trustee or any Enforcing Party may assign any of Developer's interest in the Relevant Agreement.

However, the Security Trustee must give notice of such an assignment to the State Party, the State Party being unable to withhold its consent if satisfied that the proposed assignee is technically and financially capable of performing the obligations of the Developer under the Relevant Agreement, undertakes to the State Party to do so and all relevant Authorisations are held.

The deed does not prevent the Agent or Security Trustee from giving notices, demanding payment, exercising powers or enforcing the Security Documents.

(Clause 5)

11. Notices

The Agreement contains provisions stipulating how notices and other communications in connection with the deed are given and by whom.

(Clause 6).

12. General

12.1 Waiver

The right of any party to insist on strict performance of the deed will not be affected by any previous waiver or course of dealing.

12.2 Amendment

The deed may only be amended by a further agreement.

12.3 Severability

If any provision is unenforceable, it will be read down to the extent of the unenforceability.

12.4 Further assurance

Each party shall do all things reasonably required to give effect to the deed.

12.5 Whole agreement

The deed represents the entire contract between the parties and supersedes all understandings.

12.6 Term

The deed continues until the Security Interest is fully and finally discharged.

12.7 Governing law

The deed is governed by the laws of South Australia. The parties submit to the jurisdiction of the courts of South Australia and any relevant appeal courts.

(Clauses 7 and 8)

13. Additional Provisions

The following deeds have further provisions:

13.1 Implementation Agreement

The State Party is to give notice (prior if reasonable) to the Agent and the Security Trustee if it exercises its right to pursue a subsequent development approval.

(Clause 4.2)

13.2 Gas Supply Agreement

Nil.

13.3 Retail Agreement

The Developer and State Party agree that “Section 5(a)(vi)(7)” should read “Section 5(a)(vii)(7)” in the Schedule Part 5 paragraph (f) of the Retail Agreement.

(Clause 7.9)

13.4 Foreshore Lease

The Agent and Security Trustee agree to:

- release land;
- not effect improvements;
- not to dispose of land without obtaining from the transferee a similar covenant,

so that effect may be given to the “Return of Land” provisions of clause 7.7 of the Implementation Agreement.

(Clause 3.6)

14. Glossary

Terms used in this Summary and which are defined in the Permitted Chargee Deeds are included below. What appears is a summary of the definition or the definition itself:

Enforcing Party means the Security Trustee or any receiver, receiver and manager, agent or attorney or other Controller (as defined in the Corporations Law) appointed under any Security Document or any other person claiming through or under the Security Trustee (including any person acquiring any rights upon realisation of the security under any Security Document).

Event of Default means a breach by the Developer of any of its obligations under the Relevant Agreement.

Financiers has the same meaning as in the Project Facility Agreement.

Government Agency means any government or any governmental, semi-governmental or judicial entity or authority.

Initial Financiers means Australia and New Zealand Banking Group Limited, Commonwealth Bank of Australia and SG Australia Limited.

Project Facility Agreement means the Project Facility Agreement dated on or about the date of the deed between the Developer, the Initial Financiers, the Agent, the Security Trustee and the other parties defined therein as the Joint Lead Arrangers.

Security Document means any document under which a Security Interest is given or other agreements are made by the Developer to or with the Security Trustee.

Security Interest includes any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind. It includes:

- anything which gives a creditor priority to other creditors with respect to any asset; and
- retention of title other than in the ordinary course of day-to-day trading and a deposit of money by way of security but it excludes a charge or lien arising in favour of a Government Agency by operation of statute unless there is default in payment of moneys secured by that charge or lien.

Security Trust Deed means the Security Trust Deed dated on or about the date of the deed establishing the Pelican Point Security Trust and made between the Agent, the Security Trustee and the other parties defined therein as the Initial Financiers and the Security Provider.

ANNEXURE 1 TO PERMITTED CHARGE DEEDS SUMMARY

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Permitted Charge Deed

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ANNEXURE 4 TO PERMITTED CHARGE DEEDS SUMMARY

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7. EASEMENTS

The State is required by clause 7.6 of the Implementation Agreement (see Section 9.6 of Summary of Implementation Agreement) to grant or to assist the Developer to obtain certain easements (reasonably required for the Facility).

Those easements are to be effected by registered documents. Copies of the documents are attached.

The easements are:

1. Form RTC – Application for Deposit of a Plan of Division Registered No. 8674520;
2. Grant of Easement Registered No. 8683999;
3. Grant of Easement Registered No. 8683998;
4. Grant of Easement Registered No. 8683996;
5. Grant of Easement Registered No. 8683995;
6. Grant of Easement Registered No. 8683994;
7. Grant of Easement Registered No. 8684000;
8. Grant of Easement Registered No. 8683997;
9. Grant of Easement Registered No. 8683993.
10. Grant of Easement Registered No. 8738031.
11. Grant of Easement Registered No. 8738032.
12. Grant of Easement Registered No. 8738034.
13. Grant of Easement Registered No. 8894091.
14. Grant of Easement Registered No. 8894092.
15. Grant of Easement Registered No. 8756922.
16. Grant of Easement Dealing No. 8920535 (lodged but unregistered).
17. Grant of Easement Dealing No. 8944544

8674520



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

APPLICATION FOR DEPOSIT OF A PLAN OF DIVISION

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
1	RTC
	D.P.

52266

BELOW THIS LINE FOR OFFICE USE ONLY

Date	30 APR 1999	Time	14:20
FEES			
R.G.O.	POSTAGE	NEW C.T.	
211		384	
PLAN EXAMINATION	PLAN DEPOSIT	SURVEY ACT LEVY	
	80		

CERTIFICATE CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

M. Phelan
MARGARET HOBBS

Solicitor/Registered Conveyancer/Applicant

AGENT CODE

Lodged by: } FINLAYSONS FINL

Correction to: } FINL

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

- CT 5421/435
- CT 5216/527 and 528
-
-
-

Assessor *TD*

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

- refer mode of issue*
-
-
-
-

PICK-UP NO.	8671598
DP	52266

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM CT/CL REF	AGENT CODE
<i>Newers all lots</i>	FINL

JMS:352364/2:371737

NEW CERTIFICATE(S) OF TITLE TO ISSUE

Allotment comprising Pieces 22 and 24
 Allotments 23, 25 and 27 in DP 52266

I certify that the within RTC is in accordance with section 49 of the Development Act 1993

30 APR 1999 020082127L.T.O.
 30 APR 1999 020082127L.T.O.

Jim Sullivan

Solicitor

30 APR 1999 020082124L.T.O.

CORRECTION	PASSED
	<i>8</i>

PLAN DEPOSITED	<i>J.P. Jones 4/5/99.</i>
----------------	---------------------------

REGISTERED	<i>4/5/99</i>
<i>M. Phelan</i>	<i>for</i>



DETAILS OF TRANSACTION(S) (Applicants only)	CONSIDERATION/VALUE
Vesting from Minister for Environment and Heritage to South Australian Ports Corporation to form Allotments 28, 29 and 30.	\$342,750.00
Creation of the internal easements and rights of way as described in the accompanying Plan of Division	Does not exceed \$100.00

SCHEDULE OF EASEMENTS CREATED BY DEPOSIT OF THE ACCOMPANYING PLAN OF DIVISION

~~*Short form:~~ The easement(s) expressed on the plan to which the provisions of Sections 89 and 89a of the Real Property Act 1886 apply.

*Long form: Easement(s) indicated on the plan to be set out in full in this instrument are as follows:

An easement over the whole of that portion of Allotments 26, 27 and 30 marked "B" in Deposited Plan Number 52266 (the *Servient Land*) to construct, install, maintain, repair, operate, renew, replace, remove, relay and supplement the underground cooling water intake and outlet piping and ancillary infrastructure (including any items installed by the Grantee replacing or supplementing the same (in this Easement called *the Installations*)) for the benefit of and as appurtenant to the whole of the land comprised in Allotments 28 and 29 in Deposited Plan Number 52266 (the *Dominant Land*) and for such purposes the Grantor agrees:

- (a) the rights granted under this Grant of Easement may be exercised by the owners and occupiers for the time being of an estate in fee simple in the Dominant Land and by their servants, agents, employees and other persons authorised by them.
- (b) the Grantee and all persons authorised by the Grantee shall have the right at all times to enter and remain upon the Servient Land with or without vehicles, equipment and materials for the purposes of constructing, installing, operating, maintaining, repairing, renewing, removing, relaying, replacing and supplementing the Installations subject to the person exercising such right causing as little damage and inconvenience as is reasonably practicable and in the event of damage being caused to the Servient Land immediately making good such damage.

The Grantee agrees that the rights granted by the Grantor referred to above are subject to the covenants contained in paragraphs (c) and (d) immediately below:

- (c) all Installations and any removals, or replacements of the Installations must be located within that portion of the Servient Land commencing at a height of -16.5 metres AHD and limited to a height of zero metres AHD; and
- (d) in addition to the provisions of paragraph (c) above, the Grantee will, after that portion of the Servient Land comprising Allotment 30 in DP 52266 becomes a public road, exercise its rights under this Easement in accordance with the provisions of clause 11.2.

1. DEFINITIONS/INTERPRETATION AND COVENANTS

The Grantor and Grantee covenant as follows:

1.1 The following definitions apply unless the context requires otherwise:

Covenants continued on Annexure A

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/99 over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528	NUMBER Office use only
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ANNEXURE A

Dominant Land means the whole of the land comprised in Allotments 28 and 29 in Deposited Plan Number 52266;

Easement means this easement and any amendments or variations made by the parties in writing;

Grantee means the registered proprietor from time to time of an estate in fee simple in the whole of the land in Allotments 28 and 29 in DP 52266;

Grantor means South Australia Ports Corporation its successors and assigns;

Installations means an underground cooling water intake and outlet piping and ancillary infrastructure and includes any items installed by the Grantee replacing or supplementing the same;

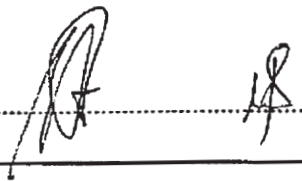
Main Site means the whole of Allotments 28 and 29 in Deposited Plan Number 52266;

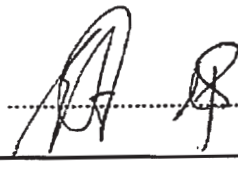
Servient Land means the land marked "B" in Deposited Plan Number 52266;

1.2 The following rules of interpretation apply unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a reference to one gender includes all genders;
- (d) a reference to a person includes an individual and a corporation;
- (e) a reference to any party to this Easement includes its successors and assigns;
- (f) where a party comprises two or more people the terms of this Easement bind them jointly and severally;
- (g) a reference to legislation includes all amendments to it and any legislation passed in substitution for it and a regulation or statutory instrument issued under it; and
- (h) a reference to the whole includes any part.

1.3 This Easement is governed by South Australian law.

Grantor initials 

Grantee initials 

Form B1
Attach to inside
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To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/99 over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528	NUMBER Office use only
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Annexure A continued

2. OWNERSHIP

Notwithstanding any operation of law the Installations erected or installed on the Servient Land by the Grantee shall not at any time become the property of the Grantor irrespective of how they are affixed, annexed or attached to the Servient Land.

3. NO DEALING BY GRANTEE

The Grantee shall not, without first obtaining the consent of the Grantor, grant any rights over or in respect of the Easement to any other person.

4. RELEASE AND INDEMNITY

- 4.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee exercising its rights under this Easement.
- 4.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.

5. GRANTOR'S COVENANTS

The Grantor shall not without the prior consent of the Grantee do any act, matter or thing on or under the Servient Land which interferes or which may interfere with the Grantee's enjoyment of the Easement (including without limitation access for the purposes of constructing, installing, operating, maintaining, repairing, renewing, removing, relaying, replacing or supplementing the Installations).

6. YIELDING UP

- 6.1 If the Grantee ceases to conduct business on the Main Site for a period longer than one (1) year then the Grantor may serve a written notice requiring extinguishment of this easement at the expiration of one (1) year from the date of the notice unless the Grantee continues to conduct business by that date. If the Grantee fails to extinguish this easement then the Grantor may, by the service of written notice extinguish the easement three (3) months after service of that notice.
- 6.2 Upon extinguishment, the Grantee will at its cost promptly remove the Installations from the Servient Land, reinstate any damage done to the Servient Land resulting from such removal and sign and provide to the Grantor an Extinguishment of Easement in registrable form. If the Grantee fails to observe its obligations under this clause 6.2 it hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney.

Grantor initials 

Grantee initials 

Form B1
Attach to inside
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To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/99 over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528	NUMBER Office use only
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Annexure A continued

7. NOTICES

- 7.1 Without prejudice to any other method of service, any notice or other communication given by a party in connection with this Easement is deemed to have been duly given when made in writing and signed by the party or, in the case of a corporation, by any authorised officer of the party and sent by prepaid post or facsimile to the recipient party's address appearing in this Easement or to such other address as one party may notify to the other in writing.
- 7.2 Any notice or other communication sent by prepaid post shall be deemed to have been received at the expiration of 2 business days after the date of posting.
- 7.3 Any notice or other communication sent by facsimile shall be deemed to have been received upon production by the sending party's facsimile machine of a transmission report indicating the facsimile has been successfully sent.

8. DISPUTE RESOLUTION

- 8.1 Any dispute which arises between the Grantor and the Grantee in relation to this Easement may be determined by a solicitor of the Supreme Court of South Australia appointed by the President at the relevant time of the South Australian Law Society Inc at the request of the Grantor or the Grantee.
- 8.2 The solicitor shall act as an expert and not as an arbitrator and the solicitor's determination is final and binding on both parties.
- 8.3 The costs of the solicitor's determination shall be borne equally by the Grantor and the Grantee.
- 8.4 This method of determination of any dispute is without prejudice to the right of any party to have the dispute judicially determined by a South Australian Court of competent jurisdiction.

9. COSTS

- 9.1 The Grantee and Grantor must pay their own costs (including legal costs) in relation to the preparation, negotiation and execution of this Easement.
- 9.2 The Grantee shall pay all stamp duty, registration fees and survey fees in connection with this Easement.

10. GENERAL PROVISIONS

- 10.1 No variation, modification or waiver of any provision of this Easement will be of any effect unless it is in writing signed by the parties or (in the case of a waiver) by the party giving it. Any variation, modification or waiver will be effective only to the extent to or for which it may be made or given.

Grantor initials 
Grantee initials 

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/99 over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528	NUMBER Office use only
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Annexure A continued

10.2 No failure, delay, relaxation or indulgence by any party in exercising any legal, equitable, contractual, statutory or other right, power, authority, benefit, privilege, remedy, discretion or cause of action conferred on that party by this Easement will operate as a waiver of it, nor will any single or partial exercise nor any single failure to do so preclude any other or future exercise under this Easement.

11. FURTHER GRANTEE'S RIGHTS ETC

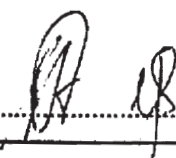
11.1 The Grantor agrees that it will not make or declare the Servient Land as a public road prior to 31 December 2001.

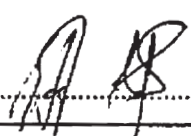
11.2 After that portion of the Servient Land comprising Allotment 30 in DP 52266 becomes a public road (the *Public Road Land*) the Grantee may only exercise its rights under this Easement in respect of the Public Road Land above the height of zero metres AHD in accordance with the following terms:

- (a) if the Grantee's exercise of its rights under this clause 11.2 would not interrupt the use of the Public Road Land as a public road the Grantee may continue to exercise its rights under this Easement;
- (b) if the Grantee's exercise of its rights under this clause 11.2 would interrupt the use of the Public Road Land as a public road the Grantee will before exercising any such rights give written notice to and consult with the Grantor with a view to agreeing how the Grantee may exercise its rights without unreasonably interrupting the use of the Public Road Land as a public road. The Grantee will only exercise such rights on terms agreed to by the Grantor.

See Annexure D

See Annexure B and Annexure C for additional Schedule of Easements

Grantor initials 

Grantee initials 

Form B1
Attach to inside
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To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated <u>30/4/99</u> over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528 ✓	NUMBER Office use only
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ANNEXURE B

The Grantor hereby grants to the Grantee as appurtenant to Allotments 25 and 27 in DP 52266 a full and free right and liberty to and for the Grantee and its successors in title for the time being of the Grantee's estate and interest in fee simple in Allotments 25 and 27 in DP 52266 to pass and repass with or without cars, trucks, utilities, motor bikes and all other means of transport together with trailers irrespective of whether the vehicles are propelled by petrol engine or some other type of propulsion on and over the whole of those portions of land marked "A" and "D" in Allotment 30 in DP 52266 (the *Easement*) ✓

And by their servants, agent, employees and other persons authorised by them
DEFINITIONS/INTERPRETATION AND COVENANTS



The Grantor and Grantee covenant as follows:

1. In this Easement, unless the context otherwise requires: ✓
 - 1.1 **Dominant Land** means an estate in fee simple in the whole of the land comprised in Allotments 25 and 27 in DP 52266; ✓
 - 1.2 **Grantee** means the registered proprietor from time to time of an estate in fee simple in the whole of the land comprised in Allotments 25 and 27 DP 52266;
 - 1.3 **Grantor** means South Australian Ports Corporation its successors and assigns;
 - 1.4 **Land** means the whole of those portions of Allotment 30 in DP 52266 marked "A" and "D";
2. 2.1 The Grantee agrees that this Easement extinguishes on the earlier of:
 - (a) the Land being made a public road; or
 - (b) the written election of the Grantee.
- 2.2 The Grantee will, within 7 days of the Grantee receiving a request from the Grantor, sign all documents and do such other things as the Grantor reasonably requires to enable this Easement to be extinguished as contemplated by clause 2.1.
- 2.3 The Grantee hereby irrevocably appoints the Grantor and any person nominated by the Grantor the attorney of the Grantee and as the Grantee's act and deed to sign such documents or to do such things which the Grantee is obliged to do but fails to do as required by clause 2.2. The Grantee hereby ratifies all acts, matters and things which the attorney may do in accordance with this clause 2.3.
- 2.4 No person shall be required to enquire as to the authority of the attorney to bind the Grantee.
- 2.5 The Grantee is not entitled to any compensation for extinguishment of this Easement.

Grantor initials AA AB

Grantee initials AA AB

Form B1
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left hand corner

<p>To be completed by lodging party</p> <p>ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/49 over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528</p>	<p>NUMBER Office use only</p>
<p>Annexure B continued</p> <p>3. The Grantor and its representatives, servants, agents and workmen shall not in any way whatsoever be liable or responsible for and each is hereby forever released from and indemnified against any liability for loss, damage or injury which may be sustained by the Grantee or any of its servants, agents, workmen in or arising out of the Grantee's exercise or attempted exercise of its rights under this Easement provided the same does not result from the negligent or wilful act of the Grantor.</p> <p>Grantor:  Grantee: </p>	

Approval No: 240

Form B1
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To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated <u>30/4/99</u> over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528	NUMBER Office use only
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Refer Annexure E. ANNEXURE C *easement*

The Grantor hereby grants to the Grantee as appurtenant to Allotments 26, 28 and 29 in DP 52266 a full and free right and liberty to and for the Grantee and its successors in title for the time being of the Grantee's estate and interest in fee simple in Allotments 26, 28 and 29 to pass and repass with or without cars, trucks, utilities, motor bikes and all other means of transport together with trailers irrespective of whether the vehicles are propelled by petrol engine or some other kind of propulsion on and over the whole of those portions of land marked "A" and "E" of Allotment 30 in DP 52266.

And by their agents, employees and other persons authorised by them
DEFINITIONS/INTERPRETATION AND COVENANTS

The Grantor and Grantee covenant as follows:

1. In this Easement, unless the context otherwise requires:
 - 1.1 **Dominant Land** means the estate in fee simple in the whole of the land comprised in Allotments 26, 28 and 29 in DP 52266;
 - 1.2 **Grantee** means the registered proprietor from time to time of an estate in fee simple in Allotments 26, 28 and 29 in DP 52266;
 - 1.3 **Grantor** means South Australian Ports Corporation;
 - 1.4 **Land** means the whole of those portions of Allotment 30 in DP 52266 marked "A" and "E";
2. The Grantee may, at its cost:
 - 2.1 erect a fence on any boundary of the Land with the Dominant Land;
 - 2.2 erect a gate or boom gate on any part of the Land adjacent to Allotment 28 which may be operated by the Grantee to prevent access to the Land by any other party other than the Grantor;
 - 2.3 lay asphalt or other sealant over the Land so as to create a sealed road;
 - 2.4 install pipes and/or other infrastructure relating to telecommunications, sewerage, gas, water or other utilities for the benefit of Allotments 26, 28 and 29 on or under the Land. The Grantee will exercise its rights under this clause 2.4 in a manner consistent with the Land at all times being a public road.
3.
 - 3.1 (a) The Grantee agrees that this Easement extinguishes on the earlier of:
 - (i) the Land being made a public road;
 - (ii) the written election of the Grantee.
 - (b) The Grantor agrees that it will not make or declare that Land as a public road prior to 31 December 2001.
 - 3.2 The Grantee will, within 7 days of the Grantee receiving a request from the Grantor, sign all documents and do such other things as the Grantor reasonably requires to enable this Easement to be extinguished as contemplated by clause 3.1.

Grantor initials *AP* *D*

Grantee initials *AP* *MS*

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To be completed by lodging party ANNEXURE to Application for Deposit of Plan of Division dated 30/4/99 over Certificate of Title Volume 5421 Folio: 435 and Volume 5216 Folios 527 and 528	NUMBER Office use only
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reg'd way

ANNEXURE D

The Grantor hereby grants to the Grantee as appurtenant to Allotments 26, 28 and 29 in DP 52266 a full and free right and liberty to and for the Grantee and its successors in title for the time being of the Grantee's estate and interest in fee simple in Allotments 26, 28 and 29 in DP 52266 and by their servants, agents, employees and other persons authorised by them to pass and repass with or without cars, trucks, utilities, motor bikes and all other means of transport together with trailers irrespective of whether the vehicles are propelled by petrol engine or some other type of propulsion on and over the whole of those portions of land marked "A" and "E" in Allotment 30 in DP 52266 (the *Easement*).

DEFINITIONS/INTERPRETATION AND COVENANTS

The Grantor and Grantee covenant as follows:

1. In this Easement, unless the context otherwise requires:
 - 1.1 *Dominant Land* means an estate in fee simple in the whole of the land comprised in Allotments 26, 28 and 29 in DP 52266;
 - 1.2 *Grantee* means the registered proprietor from time to time of an estate in fee simple in the whole of the land comprised in Allotments 26, 28 and 29 in DP 52266;
 - 1.3 *Grantor* means South Australian Ports Corporation its successors and assigns;
 - 1.4 *Land* means the whole of those portions of Allotment 30 in DP 52266 marked "A" and "E";
2.
 - 2.1 The Grantee agrees that this Easement extinguishes on the earlier of:
 - (a) the Land being made a public road; or
 - (b) the written election of the Grantee.
 - 2.2 The Grantee will within 7 days of the Grantee receiving a request from the Grantor, sign all documents and do such other things as the Grantor reasonably requires to enable this Easement to be extinguished as contemplated by clause 2.1.
 - 2.3 The Grantee hereby irrevocably appoints the Grantor and any person nominated by the Grantor the attorney of the Grantee and as the Grantee's act and deed to sign such documents or to do such things which the Grantee is obliged to do but fails to do as required by clause 2.2. The Grantee hereby ratifies all acts, matters and things which the attorney may do in accordance with this clause 2.3.
 - 2.4 No person shall be required to enquire as to the authority of the attorney to bind the Grantee.
 - 2.5 The Grantee is not entitled to any compensation for extinguishment of this Easement.

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To be completed by lodging party ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/99 over Certificates of Title Volume 5421 Folio 435 and Volume 5216 Folios 527 and 528	NUMBER Office use only
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ANNEXURE D continued

3. The Grantor and its representatives, servants, agents and workmen shall not in any way whatsoever be liable or responsible for and each is hereby forever released from and indemnified against any liability for loss, damage or injury which may be sustained by the Grantee or any of its servants, agents, workmen in or arising out of the Grantee's exercise or attempted exercise of its rights under this Easement provided the same does not result from the negligent or wilful act of the Grantor.

Form B1
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To be completed by lodging party ANNEXURE to Application for Deposit of Plan of Division dated 30/4/99 over Certificate of Title Volume 5421 Folio 435 and Volume 5216 Folios 527 and 528	NUMBER Office use only
<p style="text-align: center;">ANNEXURE E</p> <p><i>Easement</i></p> <p>The Grantor hereby grants to the Grantee as appurtenant to Allotments 26, 28 and 29 in DP 52266 (the <i>Dominant Land</i>) a full and free right and liberty to and for the Grantee and its successors in title for the time being of the Grantee's estate and interest in fee simple in Allotments 26, 28 and 29 in DP 52266 and by their servants agents employees and other persons authorised by them to pass and repass with or without cars trucks utilities motor bikes and all other means of transport together with trailers irrespective of whether the vehicles are propelled by petrol engine or some other type of propulsion on and over the whole of those portions of land marked "A" and "E" of Allotment 30 in DP 52266 (the <i>Land</i>) for the purposes of:</p> <ol style="list-style-type: none">1. erecting a fence on any boundary of the Land with the Dominant Land;2. erecting a gate or boom gate on any part of the Land adjacent to Allotment 28 which may be operated by the Grantee to prevent access to the Land by any other party other than the Grantor;3. laying asphalt or other sealant over the Land so as to create a sealed road; and4. installing pipes and/or other infrastructure relating to telecommunications, sewerage, gas, water or other utilities for the benefit of Allotments 26, 28 and 29 on or under the Land.	

Approval No: 240

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<p>To be completed by lodging party</p> <p>ANNEXURE to Application for Deposit of a Plan of Division dated 30/4/99 over Certificates of Title Volume: 5421 Folio: 435 and Volume: 5216 Folios 527 and 528</p>	<p>NUMBER Office use only</p>
<p>Annexure C continued</p> <p>3.3 The Grantee hereby irrevocably appoints the Grantor and any person nominated by the Grantor the attorney of the Grantee and as the Grantee's act and deed to sign such documents or to do such things which the Grantee is obliged to do but fails to do as required by clause 3.2. The Grantee hereby ratifies all acts, matters and things which the attorney may do in accordance with this clause 3.3.</p> <p>3.4 No person shall be required to enquire as to the authority of the attorney to bind the Grantee.</p> <p>3.5 The Grantee is not entitled to any compensation for extinguishment of this Easement.</p> <p>3.6 The Grantee shall not be required to remove any of the structures erected on, in or under the Land as referred to in clauses 2.1, 2.3 or 2.4.</p> <p>4. The Grantor and its representatives, servants, agents and workmen shall not in any way whatsoever be liable or responsible for and each is hereby forever released from and indemnified against any liability for loss, damage or injury which may be sustained by the Grantee or any of its servants, agents, workmen in or arising out of the Grantee's exercise or attempted exercise of its rights under this Easement provided the same does not result from the negligent or wilful act of the Grantor.</p>	

Approval No: 240

STATEMENT OF EFFECT ON ESTATES OR INTERESTS OF CONSENTING PARTIES

ESTATE/INTEREST AFFECTED	EFFECT ON ESTATE OR INTEREST HELD OR CLAIMED	CONSIDERATION/VALUE
Not applicable		
For further statements and consents see annexure(s) Nil		

~~CERTIFICATION under Section 79(6) of the Stamp Duty Act 1923~~
~~The highest amount secured during the currency of the Mortgage was \$ — and the Mortgage has been duly stamped.~~

CERTIFICATE OF CONSENT FOR THE DEPOSIT OF A PLAN OF DIVISION
(Pursuant to Section 223lh of the Real Property Act 1886)

I/We the undersigned hereby certify my/our consent to the deposit of the accompanying plan of division in the Lands Titles Registration Office and acknowledge that the deposit of the said plan will affect my/our estate or interest to the extent set out in the above Statement of Effect Panel.

Dated the _____ day of _____ 1999

CONSENTING PARTY (Full Name, Address and nature of estate or interest)

Not applicable

SCHEDULE OF MODE OF ISSUE

ALLOTMENT No./CT REFERENCE	FULL NAME, ADDRESS AND MODE OF HOLDING	EASEMENTS AND ESTATES OR INTERESTS
Pieces 22 and 24 together forming one Allotment	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Subject to such rights and liberties as are set out in the accompanying plan and/or described herein
Allotment 23	Minister for Environment and Heritage, Adelaide 5000	Nil
Allotment 25	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Together with such rights and liberties as set out in the accompanying plan and/or as described herein
Allotment 26	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Together with and subject to such rights and liberties as set out in the accompanying plan and/or as described herein
Allotment 27	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Together with and subject to such rights and liberties as set out in the accompanying plan and/or as described herein
Allotment 28	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Together with such rights and liberties as set out in the accompanying plan and/or as described herein
Allotment 29	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Together with such rights and liberties as set out in the accompanying plan and/or as described herein
Allotment 30	South Australian Ports Corporation of 296 St Vincent Street, Port Adelaide 5015	Subject to such rights and liberties as are set out in the accompanying plan and/or as described herein

Dated the

30 day of



1999

✓

EXECUTION BY APPLICANT(S)

THE COMMON SEAL of SOUTH AUSTRALIAN PORTS CORPORATION was affixed hereto pursuant to a decision of the Board:

)

✓

B. A. Fry

Director

B. A. FRY

PRINT NAME

Yvonne Smedley

Director

YVONNE SMEDLEY

PRINT NAME

THE COMMON SEAL of MINISTER FOR ENVIRONMENT AND HERITAGE was affixed hereto by the authority of the Minister in the presence of:

)

✓



Russell John Gamble

Witness

RUSSELL JOHN GAMBLE

APPLICATION FOR DEPOSIT OF A PLAN OF DIVISION

(Pursuant to Part XIXAB of the Real Property Act 1886)

1-
\$12542.
T

Development No. 49/040/023/98

DP 52266

CERTIFICATE(S) OF TITLE AFFECTED

First: The whole of the land comprised in Certificate of Title Register Book Volume 5421 Folio 435

Secondly: The whole of the land comprised in Certificates of Title Register Book Volume 5216 Folios 527 and 528

I/We the undersigned Applicant(s) hereby apply to have the accompanying plan of division deposited in the Lands Titles Registration Office and acknowledge that deposit of the said plan will affect my/our estate and interest in the said land to the extent indicated in the Details of Transactions panel and that certificates of titles will issue in accordance with the schedule of mode of issue.

APPLICANT (Full Name and Address of all Registered Proprietors of land divided)

First: **SOUTH AUSTRALIAN PORTS CORPORATION** a body corporate pursuant to the South Australian Ports Corporation Act 1994 formerly of 293 St Vincent Street, Port Adelaide 5015 but now of 296 St Vincent Street, Port Adelaide 5015

Secondly: **MINISTER FOR ENVIRONMENT AND HERITAGE** as successor to **MINISTER FOR THE ENVIRONMENT AND NATURAL RESOURCES** of Adelaide 5000

COMMISSIONER OF STATE TAXATION

S.A. STAMP DUTY PAID \$12542.00
ADJUDGED DULY STAMPED
ORIGINAL with 0 copies
30/04/1999 12:35:31 00443912.1
Consideration / Value (\$342750.00)
CONVEYANCE OF LAND

COMMISSIONER OF STATE TAXATION

S.A. STAMP DUTY PAID \$100.00
ADJUDGED DULY STAMPED
ORIGINAL with 0 copies
30/04/1999 12:35:38 00443912.3
Consideration / Value (\$100.00)
VOLUNTARY CONVEYANCE

NOT TO BE DETACHED.

Finlaysons

ALLENS
ARTHUR ROBINSON
GROUP

BARRISTERS SOLICITORS & NOTARIES

OUR REFERENCE MH:352364/1
YOUR REFERENCE
WRITER'S DIRECT LINE 8235 7521

81 FLINDERS STREET
ADELAIDE AUSTRALIA
TELEPHONE + 61 - 8 - 8235 7400
FACSIMILE + 61 - 8 - 8232 2944
DX 152 ADELAIDE

CORRESPONDENCE
GPO BOX 1244
ADELAIDE SA
AUSTRALIA 5001

5 May 1999

The Registrar General
101 Grenfell Street
ADELAIDE SA 5000

Attention: Tania Gudiskis

Dear Sir

Requisitions RTC 8674520 and L 8674522

We refer to your requisitions in this matter and respond as follows using your numbering.

RTC 8674520

4. We confirm it is the intention of the plan that the Allotment comprising Pieces 22 and 24 has no access to a public road.
6. We acknowledge and confirm it is the intention of the document to include the covenants between the Grantor and the Grantee who are one and the same person.

L 8674522

5. We confirm this document has been executed by National Power South Australia Investments Limited as a result of or in connection with the construction and operation of a gas-fired power plant to be constructed at Pelican Point, Adelaide.

Thank you for your assistance in this matter.

Yours faithfully



Margaret Hobby
Registered Conveyancer
e-mail: margarethobby@finlaysons.com.au

GROUP AND ASSOCIATED OFFICES

SYDNEY	MELBOURNE	BRISBANE	PERTH	ADELAIDE	GOLD COAST
SINGAPORE	HONG KONG	JAKARTA	PORT MORESBY	SHANGHAI	BANGKOK
MH/397660					

8683999



LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

GRANT OF EASEMENT


FORM APPROVED BY THE REGISTRAR-GENERAL

ORIGINAL (DUP)

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
68	TG

CERTIFIED CORRECT FOR THE PURPOSES
OF THE REAL PROPERTY ACT 1886



JIM SULLIVAN
Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 19 MAY 1999	Time: 1.5.40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80		48

AGENT CODE

Lodged by: } FINL

Correction to: } FINL

1 NEW CERTIFICATE(S) OF TITLE TO ISSUE

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

-
 -
 -
 -
 -
- Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

-
- easement title
- for balance see #7
-
-



NEW C.T. TO ISSUE

Eas in gross

here

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
easement title	FINL

CORRECTION Ex 50 21.5.1999	PASSED
REGISTERED 24/5/1999	
 	

Approval No: 916

JMS:352364/1

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

JL (the subject land)

A full and unrestricted right and liberty over that portion of land marked "J" in File Plan Number 4010^A as is comprised in Certificate of Title Register Book Volume 5651 Folio 56 for the Grantee and the Grantee's servants, agents, contractors and any person authorised by the Grantee (the Grantee), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, use, remove or replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works installed on or under the subject land.

COVENANTS

The Grantor and Grantee hereby covenant as follows: JL

- 1. 1.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee and/or the Grantee's servants, agents, contractors and any person authorised by the Grantee exercising its rights under this Easement.
- 1.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantor may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
- 2. Notwithstanding any other provision in this Grant of Easement the Grantee agrees that, apart from any signage or inspection points reasonably required on or above the subject land and any above ground facilities that the Grantee reasonably requires to be constructed or installed above the subject land after consulting with the Grantor, the system or systems of gas pipeline works will, promptly after the same commence operation, be located under the surface of the subject land.

Covenants continued on Annexure A

in gross as provided for by section 80(4) of the Petroleum Act JL

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

Not applicable

Form B1
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To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Certificate of Title Volume: 5651 Folio: 56	NUMBER Office use only 8683999
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ANNEXURE A

3. 3.1 If the works necessary to transmit or convey natural gas by a system or systems of gas pipeline and associated works are constructed on that portion of the land marked "H" in File Plan Number *41010* as is comprised in Certificate of Title Register Book Volume 5651 Folio 56 the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement.
- 3.2 The Grantee will pay all stamp duty and registration fees associated with the Extinguishment of this Grant of Easement.
- 3.3 The Grantee hereby irrevocably appoints ~~the~~ Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause ~~3.3~~ to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1. *90.*

Form B1
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left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated over Certificate of Title Volume: 5651 Folio: 56	NUMBER Office use only
<p>THIS PAGE IS INTENTIONALLY BLANK</p>	

Approval No: 240

DATED THE

18th

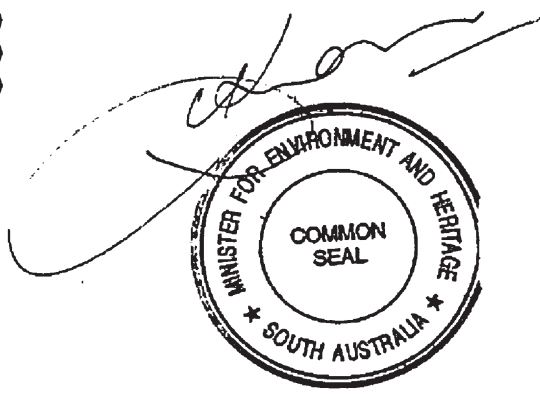
DAY OF

May

19 99

EXECUTION - GRANTOR

THE COMMON SEAL of)
MINISTER FOR ENVIRONMENT)
AND HERITAGE was affixed hereto by)
the authority of the Minister in the presence of:)



[Handwritten signature]
.....
Witness

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

Lloyd G.D.
EPIC ENERGY SOUTH)
AUSTRALIA PTY LTD by its duly)
authorised Attorney Ashley Kellett)
of 25 Conyngham St)
Crowside SA 5065)
under Registered Power of Attorney No 8220723)
who hereby states that he has no notice)
of revocation of the said Power of Attorney)
at the time of execution of this instrument)
in the presence of:)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD
by its Attorney
[Handwritten signature: Ashley Kellett]
.....
Signature of Attorney
AZ KELLETT
.....
Name of Attorney

[Handwritten signature]
.....
Witness

STEPHEN THOMAS
.....
Name of Witness

Address of
Witness: *25 Conyngham Street G.D.*
Glenside 5065.

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

999

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5651 Folio 56

COMMISSIONER OF STATE TAXATION
S.A. STAMP DUTY PAID \$1.0
RECEIVED DULY STAMPED
ORIGINAL with 2 copies
19/05/1999 14:35:03 00356533.1
Consideration / Value (\$100.00)
VOLUNTARY CONVEYANCE

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

MINISTER FOR ENVIRONMENT AND HERITAGE of Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065

✓

8683998



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

GRANT OF EASEMENT

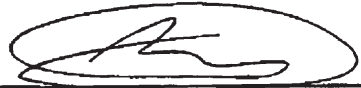
FORM APPROVED BY THE REGISTRAR-GENERAL

ORIGINAL (DUP)

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
57	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886



JIM SULLIVAN
Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY


AGENT CODE

Date: 19 MAY 1999	Time: 15:40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
50		96-

Lodged by: } FINLAISON FINL
 Correction to: } FINL

2 NEW CERTIFICATE(S) OF TITLE TO ISSUE

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT 5657/56
- 2.
- 3.
- 4.
5. Assessor 

NEW C.T. TO ISSUE
 for easement in gross
 created herein

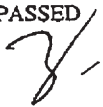


PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. new ct for lot 23
2. easement title
- 3.
- 4.
- 5.

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
new ct (lot 23)	FINL
easement title	

JMS:352364/1

CORRECTION Ex 50 21.5.1999	PASSED 
REGISTERED 24/5/1999	
 	

Approval No: 916

JKM/115844

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

9D. (the subject land)

A full and unrestricted right and liberty over that portion of land marked "H" in File Plan No 41010 as is comprised in Certificate of Title Register Book Volume 5651 Folio 56 for the Grantee and the Grantee's servants, agents, contractors and any person authorised by the Grantee (the Grantee), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, use, remove or replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works installed on or under the subject land.

COVENANTS

The Grantor and Grantee hereby Covenant as follows: 9D.

- 1. 1.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee and/or the Grantee's servants, agents, contractors and any person authorised by the Grantee exercising its rights under this Easement.
- 1.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
- 2. Notwithstanding any other provision in this Grant of Easement the Grantee agrees that, apart from any signage or inspection points reasonably required on or above the subject land and any above ground pipeline facilities that the Grantee reasonably requires to be constructed or installed above the subject land after consulting with the Grantor, the system or systems of gas pipeline works will, promptly after the same commence operation, be located under the surface of the subject land.

Covenants continued on Annexure A

TO BE HELD APPURTENANT TO

in gross as provided for by section 80(4) of the Petroleum Act 1940 9D.

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Certificate of Title Volume: 5651 Folio: 56	NUMBER Office use only 8683998
--	---

ANNEXURE 1

- 3.
- 3.1 If the works necessary to transmit or convey natural gas by a system or systems of gas pipeline and associated works are constructed on that portion of the land marked "J" in File Plan Number *41010* as is comprised in Certificates of Title Register Book Volume 5651 Folio 56 the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement.
 - 3.2 The Grantee will pay all stamp duty and registration fees associated with the Extinguishment of this Grant of Easement.
 - 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause ~~3.3~~ to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1. *9/1*

Form B1
Attach to inside
left hand corner

To be completed by lodging party

ANNEXURE to Grant of Easement dated
over Certificate of Title Volume: 5651 Folio: 56

NUMBER
Office use only

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DATED THE

18th

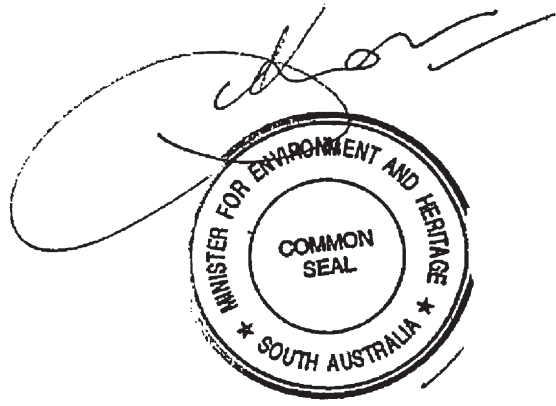
DAY OF

May

19 99

EXECUTION - GRANTOR

THE COMMON SEAL of)
MINISTER FOR ENVIRONMENT)
AND HERITAGE was affixed hereto by)
the authority of the Minister in the presence of:)



[Handwritten signature]

Witness

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

EPIC ENERGY SOUTH)
AUSTRALIA PTY LTD by its duly)
authorised Attorney Ashley Kellett)
of 25 CONYNGHAM ST)
GLENSIDE SA 5065)
under Registered Power of Attorney No 8220713)
who hereby states that he has no notice)
of revocation of the said Power of Attorney)
at the time of execution of this instrument)
in the presence of:)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD
by its Attorney

[Handwritten signature: Ashley Kellett]

Signature of Attorney

A L KELLETT

Name of Attorney

[Handwritten signature]

Witness

STEPHEN TIMMS

Name of Witness

Address of)
Witness: 25 Conyngham Street)
Glenside 5065) *[Handwritten mark]*

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5651 Folio 56

COMMISSTONER OF STATE TAXATION

STATE DUTY PAID \$1.00
ENCUMBED ONLY STAMPED
ORIGINAL with 2 copies
11/02/1999 14:124:01 00358552.1
Consideration / Value (\$100.00)
VOLUNTARY CONVEYANCE

Estate or interest

FEE SIMPLE ✓

Encumbrances

Nil ✓

Grantor(s) (Full Name and Address)

MINISTER FOR ENVIRONMENT AND HERITAGE of Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065

8683996



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

GRANT OF EASEMENT


FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

ORIGINAL (DUP)

Series No	Prefix
3	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886



JIM SULLIVAN
Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 19 MAY 1999	Time: 15:40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80		96

AGENT CODE

Lodged by: FINL
 Correction to: FINL
FINL/Arsons

2 NEW CERTIFICATE(S) OF TITLE TO ISSUE

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT 5657/62
- 2.
- 3.
- 4.
- 5.

ASSESSOR

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS


1. new ct 5657/62
2. easement title
- 3.
- 4.
- 5.

NEW C.T. TO ISSUE
 Eas. in gross created herein

DELIVERY INSTRUCTIONS (Agent to complete)
 PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
new ct lot 30 h	FINL
easement title	

JMS:398363

CORRECTION E-60 21.5.1999	PASSED <i>[Signature]</i>
REGISTERED 24/5 1999	
 REGISTRAR-GENERAL	

Approval No: 916

JMS/398363

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

62 90 (the subject land)

91

A full and unrestricted right and liberty over that portion of land marked "H" in File Plan Number 41010_A as is comprised in Certificate of Title Register Book Volume 5651 Folio 57 for the Grantee and the Grantee's servants, agents, contractors and other persons authorised by the Grantee (the Grantee), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

91

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, use radios, remove or remove and replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works installed on or under the subject land.

COVENANTS

The Grantor and Grantee hereby covenant as follows: 91

- 1. 1.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee exercising and/or the Grantee's servants, agent, contractors and any other person authorised by the Grantee its rights under this Easement.
- 1.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
- 2. Notwithstanding any other provision in this Grant of Easement the Grantee agrees that, apart from any signage or inspection points reasonably required on or above the subject land and any above ground pipeline facilities that the Grantee reasonably requires to be constructed or installed above the subject land after consulting with the Grantor, the system or systems of gas pipeline works will, promptly after the same commence operation, be located under the surface of the subject land.

in gross as provided for by Section 90 j (4) 90 of the Petroleum Act 1940.

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

Not applicable

DATED THE

18th

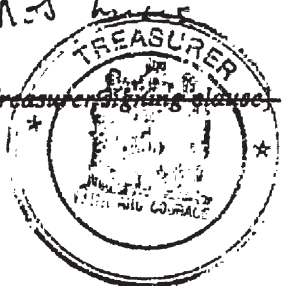
DAY OF

May

19 99

EXECUTION - GRANTOR

THE COMMON SEAL of the)
TREASURER was affixed)
hereto in the presence)
of:)



~~Insert Treasurer's signature please~~

Lee Eckerman
.....

Witness

LEE ECKERMAN

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

EPIC ENERGY SOUTH)
AUSTRALIA PTY LTD by its duly)
authorised Attorney Ashley Kellett)
of 25 CONYNGHAM ST)
GLENOLDE SA 5065)
under Registered Power of Attorney No 8220123)
who hereby states that he has no notice)
of revocation of the said Power of Attorney)
at the time of execution of this instrument)
in the presence of:)

Lloyd 99

EPIC ENERGY SOUTH AUSTRALIA PTY LTD
by its Attorney

Ashley Kellett
.....

Signature of Attorney

A. L. KELLETT
.....

Name of Attorney

A. J. Lewis
.....

Witness

STEPHEN TIMMIS
.....

Name of Witness

Address of witness: 25 Conyngham Street
Glenolde 5065

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5651 Folio 62

COMMISSIONER OF STATE TAXATION
 STA. STAMP DUTY PAID
 COLLECTED BY STAMPER
 RECORD WORK 2 TOPARS
 20/03/2008 14:00:47 000000001
 UNDERSEAL / value 1000.00
 CENTRAL CONVEYANCE

Estate or interest

FEE SIMPLE /

Encumbrances

Nil /

Grantor(s) (Full Name and Address)

TREASURER of Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065

8683995



LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

GRANT OF EASEMENT


FORM APPROVED BY THE REGISTRAR-GENERAL

ORIGINAL (DUP)

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
24	TG

CERTIFIED CORRECT FOR THE PURPOSES
OF THE REAL PROPERTY ACT 1886



JIM SULLIVAN
Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY

AGENT CODE

Date: 19 MAY 1999	Time: 15:40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80		40

Lodged by: } *R. M. Arsons* FINL

Correction to: } FINL

() NEW CERTIFICATE(S) OF TITLE TO ISSUE

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

-
-
-
-
-

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. *Reserve title*
2. *Map #3 in plan*
3.
4.
5.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
<i>Reserve title</i>	FINL
<i>R. M. Arsons</i>	

JMS:352364/1

2 NEW C.T. TO ISSUE
Eas. in gross created here
and CT 5421/436 subject eas
should have had TG 8683995
NWCT fees paid TG 8683995

CORRECTION EXCD 21.5.1999	PASSED <i>Z</i>
REGISTERED 24/5 1999	
<i>M. J. ...</i>	
REGISTRAR-GENERAL	

Approval No: 916

JKM/115944

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

J.D. (the subject land)

A full and unrestricted right and liberty over that portion of land marked "H" in File Plan Number 41010, as is comprised in Certificate of Title Register Book Volume 5421 Folio 436 for the Grantee and the Grantee's servants, agents, contractors and any other person authorised by the Grantee (the *Grantee*), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, use, radios, remove or remove and replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works installed on or under the subject land.

COVENANTS

The Grantor and Grantee hereby covenants as follows: J.D.

1. 1.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee and/or the Grantee's servants, agent, contractors and any other person authorised by the Grantee exercising its rights under this Easement.
- 1.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
2. Notwithstanding any other provision in this Grant of Easement the Grantee agrees that, apart from any signage or inspection points reasonably required on or above the subject land and any above ground pipeline facilities that the Grantee reasonably requires to be constructed or installed above the subject land after consulting with the Grantor, the system or systems of gas pipeline works will, promptly after the same commence operation, be located under the surface of the subject land.

Covenants continued on Annexure A

TO BE HELD APPURTENANT TO:-

in gross as provided for by section 80j(4) of the Petroleum Act 1940 J.D.

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18 May 1999</i> over Certificate of Title Volume: 5421 Folio: 436	NUMBER Office use only 8683995
---	---

ANNEXURE A

3. 3.1 If the works necessary to transmit or convey natural gas by a system or systems of gas pipeline and associated works are constructed on that portion of land marked "J" in File Plan Number *4010* as is comprised in Certificates of Title Register Book Volume 5421 Folio 436 the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement.
- 3.2 The Grantee will pay all stamp duty and registration fees associated with the Extinguishment of this Grant of Easement.
- 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause ~~3.3~~ to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.

Form B1
Attach to inside
left hand corner

To be completed by lodging party To be completed by lodging party ANNEXURE to Grant of Easement dated	NUMBER Office use only
---	---------------------------

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DATED THE

18th 12

DAY OF

May

1999 ✓

EXECUTION - GRANTOR



THE COMMON SEAL of SOUTH AUSTRALIAN PORTS CORPORATION was affixed hereto pursuant to a decision of the Board:

Director

G. A. Fry

PRINT NAME

G. A. FRY

Director

Yvonne Sneedon

PRINT NAME

YVONNE SNEEDON

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

EPIC ENERGY SOUTH AUSTRALIA PTY LTD by its duly authorised Attorney Ashley Kellett of 25 CONYNGHAM ST GLENIDE SA 5065 under Registered Power of Attorney No 8220723 who hereby states that he has no notice of revocation of the said Power of Attorney at the time of execution of this instrument in the presence of:

Lloyd 99

EPIC ENERGY SOUTH AUSTRALIA PTY LTD by its Attorney ✓

Signature of Attorney

Ashley Kellett

Name of Attorney

A L KELLETT

Witness

Stephen Timms

Name of Witness

STEPHEN TIMMS

Address of witness :

25 Conyngham Street
Glenide 5065

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

996

Certificate(s) of Title over which rights and liberties are being granted The whole of the land comprised in Certificate of Title Register Book Volume 5421 Folio 436	
COMMISSIONER OF STATE TAXATION STAMP DUTY PAID \$1.0 ADJUDGED ONLY STAMPED ORIGINAL with 2 copies 27/05/1997 14:36:07 00358331.1 Consideration / Value (\$100.00) VOLUNTARY CONVEYANCE	
Estate or interest	Encumbrances
FEE SIMPLE	Nil
Grantor(s) (Full Name and Address) SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the South Australian Ports Corporation Act 1994 of 296 St Vincent Street, Port Adelaide SA 5015 <i>formerly of 293 St Vincent Street Port Adelaide 5015</i> <i>but now</i>	
Consideration By mutual consent for no monetary consideration	
Grantee(s) (Full Name, Address and Certificate of Title affected) EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065	

8683994



ORIGINAL (DUP)

Series No	Prefix
1	TG

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 19 MAY 1999	Time: 15.40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80.		96.

2	NEW CERTIFICATE(S) OF TITLE TO ISSUE
---	--------------------------------------

NEW C.T. TO ISSUE
 Eas. in gross created
 herein

CORRECTION ExSO 21.3.1999	PASSED [Signature]
REGISTERED 24/3/1999	
[Signature] for REGISTRAR-GENERAL	

Approval No: 916

LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

[Signature]

JIM SULLIVAN
Solicitor

AGENT CODE

Lodged by: } FINL
 Correction to: } FINL
 } Firmansons

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT 5421/486
 - 2.
 - 3.
 - 4.
 - 5.
- Assessor [Signature]

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. new CT for 5421/486
2. easement for title
- 3.
- 4.
- 5.

DELIVERY INSTRUCTIONS (Agent to complete)

PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
original CT	FINL
new CT for 5421/486	
Eric Enberg	

JMS:352364/1

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

90. (the subject land)

A full and unrestricted right and liberty over that portion of land marked "J" in File Plan Number 41010, as is comprised in Certificate of Title Register Book Volume 5421 Folio 436 for the Grantee and the Grantee's servants, agents, contractors and any other person authorised by the Grantee (the Grantee), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- 24/09/11
- (a) to clear any vegetation or obstruction on the subject land;
 - (b) to make surveys;
 - (c) to dig, excavate and break the soil of the subject land;
 - (d) to install, operate, maintain, repair, alter, inspect, use radios, remove or remove and replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
 - (e) to transmit or convey natural gas through any system of gas pipeline works installed on or under the subject land.

COVENANTS

The Grantor and Grantee hereby covenant as follows:-

1. 1.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee and/or the Grantee's servants, agent, contractors and any other person authorised by the Grantee exercising its rights under this Easement.
- 1.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
2. Notwithstanding any other provision in this Grant of Easement the Grantee agrees that, apart from any signage or inspection points reasonably required on or above the subject land and any above ground pipeline facilities that the Grantee reasonably requires to be constructed or installed above the subject land after consulting with the Grantor, the system or systems of gas pipeline works will, promptly after the same commence operation, be located under the surface of the subject land.

Covenants continued on Annexure A

in gross as provided for by section 80(4) of the Petroleum Act 1960.

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Certificate of Title Volume: 5421 Folio: 436	NUMBER Office use only 8683994
---	---

ANNEXURE A /

3. 3.1 If the works necessary to transmit or convey natural gas by a system or systems of gas pipeline and associated works are constructed on that portion of land marked "H" in File Plan Number *4010* as is comprised in Certificates of Title Register Book Volume 5421 Folio 436 the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement.
- 3.2 The Grantee will pay all stamp duty and registration fees associated with the Extinguishment of this Grant of Easement.
- 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause **3.3** to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1. *90*

Form B1
Attach to inside
left hand corner

To be completed by lodging party

NUMBER
Office use only

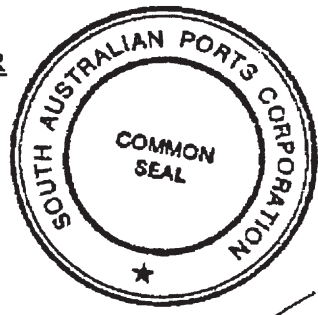
To be completed by lodging party

ANNEXURE to Grant of Easement dated

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DATED THE 18th DAY OF May 19 99

EXECUTION - GRANTOR



THE COMMON SEAL of SOUTH AUSTRALIAN PORTS CORPORATION was affixed hereto pursuant to a decision of the Board:

.....
Director

G. A. Fry

.....
PRINT NAME

G. A. FRY

.....
Director

Yvonne Sneddon

.....
PRINT NAME

YVONNE SNEDDON

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

Lloyd D.
EPIC ENERGY SOUTH AUSTRALIA PTY LTD by its duly authorised Attorney Ashley Kellett of 25 CONYNGHAM ST GLENSIDE SA 5065 under Registered Power of Attorney No 8220723) who hereby states that he has no notice of revocation of the said Power of Attorney at the time of execution of this instrument in the presence of:)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD by its Attorney
Ashley Kellett
.....
Signature of Attorney

AL KELETT
.....
Name of Attorney

Stephen Timms
.....
Witness

STEPHEN TIMMS
.....
Name of Witness

Address of Witness : 25 Conyngham Street G.L.
Glenside 5065

GRANT OF EASEMENT

Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted The whole of the land comprised in Certificate of Title Register Book Volume 5421 Folio 436		CONSIDERATION OF STATE TAXATION 2011 STATE DUTY PAID ACCEPTED ONLY STAMPED ORIGINAL with 2 copies 17 NOV 1999 14:32:57 00355534.1 Consideration / Value (\$100.00) MUTUAL CONSENT
Estate or interest FEE SIMPLE	Encumbrances Nil	
Grantor(s) (Full Name and Address) SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the South Australian Ports Corporation Act 1994 of 296 St Vincent Street, Port Adelaide SA 5015 2 PRO RS 293 St Vincent Street Port Adelaide 5015 but now		
Consideration By mutual consent for no monetary consideration		
Grantee(s) (Full Name, Address and Certificate of Title affected) EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065		

8684000



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

ORIGINAL (DUP)

Series No	Prefix
79	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

[Signature]
 JIM SULLIVAN
 Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 19 MAY 1999	Time: 15.40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80		240.

AGENT CODE

Lodged by: } FINL
FINMAISON
 Correction to: } FINL

5 NEW CERTIFICATE(S) OF TITLE TO ISSUE

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT 5163/274
 2. CT 5163/275
 3. CT 5163/276
 4. CT 5163/277
 5. CT 5163/278
- ASSESSOR *[Signature]*

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. new CT Lot 40, Lot 41
2. Lot 48, Lot 52
3. easement lth
4. new CT Lot 23 new H 7 for review
- 5.

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
new CT lots 40, 41, 48, 52	FINL
easement lth	

JMS-352364/1

NEW C.T. TO ISSUE
 Eas. in gross created herein.
 CST 5163/274, 275, 276 and 280
 subject to eas. created herein.
 CT 5163/274, 275, 276 and 280
 created herein and TG 8683992, TG 8683999
 New CT fee paid TG 8683998
 JMS 1999 0101159772.1.0

CORRECTION EXSD 21. 5.1999	PASSED <i>[Signature]</i>
REGISTERED 24/5/1999	
<i>[Signature]</i>	
REGISTRAR-GENERAL SOUTH AUSTRALIA	

Approval No: 916

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

Register Book Volume 5651 Folio 56 (the subject land)

Its successors and assigns and its and their respective servants, agents, and contractors and all others authorised by the Grantee at all times hereafter and from time to time full and free right liberty licence power and authority over the whole of that portion of land marked "L" in File Plan No 41013 as is comprised in Certificates of Title Register Book Volume 5651 Folio 56 and Volume 5163 Folios 274, 275, 279 and 280 and over the whole of that

- portion of land marked "K" in File Plan no 41010 as is comprised in Certificate of Title
- (a) to enter upon and to pass either with or without motor or other vehicles laden or unladen along or over the subject land; and
 - (b) to erect and lay on the subject land poles towers conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same; and
 - (c) to install suspend and maintain along or over the subject land overhead conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same; and
 - (d) to transmit electricity by means of such works.

COVENANTS

- The Grantor and Grantee hereby covenant as follows:
1. PROVIDED that nothing herein contained shall prevent the Grantor from growing cereal or vegetable or other crops on the subject land or from erecting fences across the subject land Provided that suitable gates shall be erected in such fences if required by the Grantee and at the expense of the Grantee to enable the Grantee conveniently to exercise its rights hereunder AND the Grantee hereby agrees to indemnify the Grantor against all loss caused in the Grantee's exercise of its rights hereunder (a) by the Grantee and by its servants, agents, contractors and all others authorised by the Grantee or (b) by Act of God or (c) by inevitable accident.
 2. 2.1 Upon completion of construction of the works necessary to transmit electricity by overhead transmission lines, the Grantee and Grantor will promptly execute and register an extinguishment of this Grant of Easement and the Grantor and Grantee will contemporaneously execute and register a new Grant of Easement containing identical terms to this Grant of Easement except that:
 - (a) this paragraph will be deleted from the new Grant of Easement;
 - (b) the land which will be subject to the new Grant of Easement will be comprised within the subject land but will be an area:
 - (i) reduced in width to 50 metres; and
 - (ii) nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the works are located centrally within the area the Grantor must agree.
 - 2.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment and the new Grant of Easement as referred to above.

Covenants continued on Annexure A

TO BE HELD APPURTENANT TO:-

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party

ANNEXURE to Grant of Easement dated *18/5/99*
over Certificates of Title Volume: 5651 Folio: 56 and
Volume: 5163 Folios: 274, 275, 279 and 280

NUMBER
Office use only

8684000

ANNEXURE A

2.3 The Grantee hereby irrevocably appoints the Grantor its Attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 2.3 to register an Extinguishment of this Grant of Easement unless:

- (a) the Grantee unreasonably delays observing and performing its obligations under clause 2.1; and
- (b) the Grantor lodges together with the Extinguishment a signed and stamped new Grant of Easement as contemplated by clause 2.1.

J.D.

Grantor Initials

J.D.

Grantee Initials

Form B1
Attach to inside
left hand corner

<p>To be completed by lodging party</p> <p>ANNEXURE to Grant of Easement dated over Certificates of Title Volume: 5651 Folio: 56 and Volume: 5163 Folios: 274, 275, 279 and 280</p>	<p>NUMBER Office use only</p>
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DATED THE

18th

DAY OF

May

1999

EXECUTION - GRANTOR

THE COMMON SEAL of)
MINISTER FOR ENVIRONMENT)
AND HERITAGE was affixed hereto by)
the authority of the Minister in the presence of:)



[Handwritten signature]

Witness

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

SIGNED by ETSA TRANSMISSION)
CORPORATION by its duly)
constituted Attorneys)
~~VICKI MARIE BROWN~~ of)
TERRY KALLIS ^{ACTING CHIEF})
who certifies that she is the COMPANY)
~~SECRETARY and EXECUTIVE OFFICER~~)
JEFFREY GALE BAMENT of)
300 Pirie Street Adelaide 5000)
who certifies that he is the)
EXECUTIVE MANAGER of)
ADMINISTRATION SERVICES)
pursuant to Power of Attorney)
Registered No 8572699 in the)
presence of:)

ETSA TRANSMISSION CORPORATION
by its attorney

[Handwritten signature]
Vicki Marie Brown Terry Kallis

[Handwritten signature]
Jeffrey Gale Bament

Power of Attorney No 8572699

[Handwritten signature]

(Witness)

Adrian Kym Tero
(Name)
300 Pirie Street, Adelaide, SA 5000
(Address)
8404 7450
(Phone Number)

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificates of Title Register Book Volume 5651 Folio 56 and Volume 5163 Folios 274, 275, 279 and 280

COMMISSIONER OF STATE TAXATION
S.A. STAMP DUTY PAID \$1.00
RECORDED DULY STAMPED
ORIGINAL with 2 copies
14/05/1999 14:27:58 00355947.1
Consideration / Value (\$100.00)
VOLUNTARY CONVEYANCE

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

MINISTER FOR ENVIRONMENT AND HERITAGE of Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

ETSA TRANSMISSION CORPORATION trading as "*ElectraNet SA*" of 300 Pirie Street Adelaide 5000

8683997



LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

ORIGINAL (DUP)

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
4	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

M. Oddy

Margaret Hobby **JIM SULLIVAN**
Solicitor

Registered conveyancer

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 19 MAY 1999	Time: 5:40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80		48

AGENT CODE

Lodged by: } *FINLAYSONS* FINL

Correction to: } FINL

1	NEW CERTIFICATE(S) OF TITLE TO ISSUE
---	--------------------------------------

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

-
-
-
-
-

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. *Statement*
2. *map 48 in plan*
3.
4.
5.

2. **NEW C.T. TO ISSUE**
Eas. in gross created here
CT 5651/62 subject eas. created
here and TG 8683996
New fees paid TG 8683996

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
<i>statement 05</i>	FINL

CORRECTION	PASSED
	<i>[Signature]</i>
REGISTERED 24 15 1999	
<i>Melzerich</i>	
<i>hoo</i>	

Approval No: 916

JMS-2000

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

(the subject land 90)

me
Its successors and assigns and its and their respective servants, agents, contractors and all others authorised by the Grantee at all times hereafter and from time to time full and free right liberty licence power and authority over the whole of that portion of land marked "K" in File Plan No *44010* as is comprised in Certificate of Title Register Book Volume 5651 Folio 62: ✓

- ca. 100*
- (a) to enter upon and to pass either with or without motor or other vehicles laden or unladen along or over the subject land; and ✓
 - (b) to erect and lay on the subject land poles towers conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same; and
 - ~~(c) to install suspend and maintain along or over the subject land overhead conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same; and~~
 - 80*
me ~~(d)~~ (e) to transmit electricity by means of such works.

COVENANTS

The grantor and grantee hereby covenant as follows: 90

- me*
1. PROVIDED that nothing herein contained shall prevent the Grantor from growing cereal or vegetable or other crops on the subject land or from erecting fences across the subject land Provided that suitable gates shall be erected in such fences if required by the Grantee and at the expense of the Grantee to enable the Grantee conveniently to exercise its rights hereunder AND the Grantee hereby agrees to indemnify the Grantor against all loss caused in the Grantee's exercise of its rights hereunder (a) by the Grantee and by its servants, agents, contractors and all others authorised by the Grantee or (b) by Act of God or (c) by inevitable accident.
 2. 2.1 Upon completion of construction of the works necessary to transmit electricity by overhead transmission lines, the Grantee and Grantor will promptly execute and register an extinguishment of this Grant of Easement and the Grantor and Grantee will contemporaneously execute and register a new Grant of Easement containing identical terms to this Grant of Easement except that:
 - (a) this paragraph will be deleted from the new Grant of Easement;
 - (b) the land which will be subject to the new Grant of Easement will be comprised within the subject land but will be an area:
 - (i) reduced in width to 50 metres; and
 - (ii) nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the works are located centrally within the area the Grantor must agree.

Covenants continued on Annexure A ✓

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

me
Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Certificate of Title Volume: 5651 Folio: 62	NUMBER Office use only 8683997
--	---

ANNEXURE A

- 2.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment and the new Grant of Easement as referred to above.
- 2.3 The Grantee hereby irrevocably appoints the Grantor its Attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 2.3 to register an Extinguishment of this Grant of Easement unless:
- (a) the Grantee unreasonably delays observing and performing its obligations under clause 2.1; and
 - (b) the Grantor lodges together with the Extinguishment a signed and stamped new Grant of Easement as contemplated by clause 2.1.

[Handwritten Initials]

Grantor Initials

[Handwritten Initials]

Grantee Initials

Form B1
Attach to inside
left hand corner

To be completed by lodging party

NUMBER
Office use only

ANNEXURE to Grant of Easement dated
over Certificate of Title Volume: 5651 Folio: 62

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Approval No: 240

DATED THE

18th

DAY OF

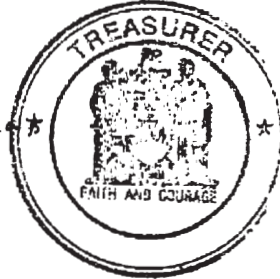
May

19 99

EXECUTION - GRANTOR

THE COMMON SEAL of the)
TREASURER was affixed hereto)
by the authority of the Treasurer in)
the presence of:)

Res hunc



[Signature]

Witness

LEE ECKERMAN

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

SIGNED by ETSA TRANSMISSION)
CORPORATION by its duly)
constituted Attorneys)
VICKI MARIE BROWN of)
TERRY KALLIS)
ACTING CHIEF)
who certifies that she is the COMPANY)
SECRETARY and EXECUTIVE OFFICER and)
JEFFREY GALE BAMENT of both)
of 300 Pirie Street Adelaide)
5000)
who certifies that he is the)
EXECUTIVE MANAGER of)
ADMINISTRATION SERVICES)
pursuant to Power of Attorney)
Registered No 8572699 in the)
presence of:)

ETSA TRANSMISSION CORPORATION
by its attorney

[Signature]

~~Vicki Marie Brown~~ Terry Kallis

[Signature]
Jeffrey Gale Bament

Power of Attorney No 8572699

[Signature]

(Witness)

Adrian Kym Tero
(Name)
300 Pirie Street, Adelaide, SA 5000
(Address)
8404 7450
(Phone Number)

997

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5651 Folio 62

COMMISSIONER OF STATE TAXATION

STAMP DUTY PAID \$1.5
ADJUDGED DULY STAMPED
ORIGINAL with 2 copies
17/05/1999 14:31:52 00355948.1
Consideration / Value (\$100.00)
VOLUNTARY CONVEYANCE

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

TREASURER of Adelaide 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

ETSA TRANSMISSION CORPORATION (trading as "Electranet SA") of 300 Pirie Street Adelaide 5000

8683993



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

GRANT OF EASEMENT

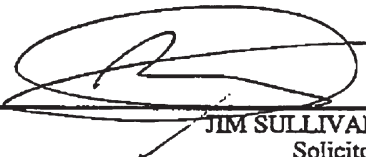
FORM APPROVED BY THE REGISTRAR-GENERAL

ORIGINAL (DUP)

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
12	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886



JIM SULLIVAN
Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY

AGENT CODE

Date: 19 MAY 1999	Time: 15:40	
FEES		
R.G.O.	POSTAGE	NEW C.T.
80.		144.

Lodged by: } FINL
 Correction to: } FINL
 } F. MARZONS

3 NEW CERTIFICATE(S) OF TITLE TO ISSUE

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT 5651/60
 2. CT 5651/61
 - 3.
 - 4.
 - 5.
- Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS



1. new CT Van LOT 3.1
2. new CT for
3. RPP/... title 5651/60-61
- 4.
- 5.

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
new CT 51	FINL
new CT 5651/60	
new CT 5651/61	

JMS:352364/1

3 NEW C.T. TO ISSUE
 Allotment 31 DP S2372 subj ct eas. created herein
 CT 5651/60 tog. eas. created herein
 CT 5651/61 tog. eas. created herein

CORRECTION EX50 21.5.1999	PASSED 31
REGISTERED 1/16/1999	
 	

Approval No: 916

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

An easement over the whole of that portion of Allotment 31 marked "B" in Deposited Plan Number 52372 (the *Servient Land*) to construct, install, maintain, repair, operate, renew, replace, remove, relay and supplement the cooling water intake and outlet piping and ancillary infrastructure including any items installed by the Grantee replacing or supplementing the same (the *Installations*) for the benefit of and as appurtenant to the whole of the land comprised in Certificates of Title Register Book Volume 5651 Folios 60 and 61 (the *Dominant Land*) and for such purposes the Grantor agrees:

- (a) the rights granted under this Grant of Easement may be exercised by the owners and occupiers for the time being of an estate in fee simple in the Dominant Land and by their servants, agents, employees and other persons authorised by them.
- (b) the Grantee and all persons authorised by the Grantee shall have the right at all times to enter and remain upon the Servient Land with or without vehicles, barges, boats, other floating devices, equipment and materials for the purposes of constructing, installing, operating, maintaining, repairing, renewing, removing, relaying, replacing and supplementing the Installations subject to the person exercising such right causing as little damage and inconvenience as is reasonably practicable and in the event of damage being caused to the Servient Land immediately making good such damage.

For Covenants see Annexure A

TO BE HELD APPURTENANT TO:-

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

The whole of the land comprised in Certificates of Title Register Book Volume 5651 Folios 60 and 61

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Allotment <i>31</i> in Deposited Plan <i>52372</i>	NUMBER Office use only 8683993
---	---

ANNEXURE A

1. DEFINITIONS/INTERPRETATION AND COVENANTS

The Grantor and Grantee covenant as follows:

1.1 The following definitions apply unless the context requires otherwise:

Dominant Land means the whole of the land comprised in Certificates of Title Register Book Volume 5651 Folios 60 and 61 ;

Easement means this easement and any amendments or variations made by the parties in writing;

Grantee means the registered proprietor from time to time of an estate in fee simple in the whole of the land comprised in Certificates of Title Register Book Volume 5651 Folios 60 and 61 ;

Grantor means South Australia Ports Corporation its successors and assigns;

Installations means an underground cooling water intake and outlet piping and ancillary infrastructure and includes any items installed by the Grantee replacing or supplementing the same;

Main Site means the whole of the land comprised in Certificates of Title Register Book Volume 5651 Folios 60 and 61;

Servient Land means the whole of that portion of Allotment 31 in Deposited Plan Number *52372* marked "B" in Deposited Plan Number *52372* ;

1.2 The following rules of interpretation apply unless the context requires otherwise:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and the plural includes the singular;
- (c) a reference to one gender includes all genders;
- (d) a reference to a person includes an individual and a corporation;
- (e) a reference to any party to this Easement includes its successors and assigns;
- (f) where a party comprises two or more people the terms of this Easement bind them jointly and severally;
- (g) a reference to legislation includes all amendments to it and any legislation passed in substitution for it and a regulation or statutory instrument issued under it; and
- (h) a reference to the whole includes any part.

1.3 This Easement is governed by South Australian law.

Grantor initials *[Signature]*

Grantee initials *[Signature]*

Approval No: 240

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Allotment <i>31</i> in Deposited Plan <i>52372</i>	NUMBER Office use only
---	---------------------------

Annexure A continued

2. OWNERSHIP

Notwithstanding any operation of law the Installations erected or installed on the Servient Land by the Grantee shall not at any time become the property of the Grantor irrespective of how they are affixed, annexed or attached to the Servient Land.

3. NO DEALING BY GRANTEE

The Grantee shall not, without first obtaining the consent of the Grantor, grant any rights over or in respect of the Easement to any other person.

4. RELEASE AND INDEMNITY

- 4.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee exercising its rights under this Easement.
- 4.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.

5. GRANTOR'S COVENANTS

The Grantor shall not without the prior consent of the Grantee do any act, matter or thing on or under the Servient Land which interferes or which may interfere with the Grantee's enjoyment of the Easement (including without limitation access for the purposes of constructing, installing, operating, maintaining, repairing, renewing, removing, relaying, replacing or supplementing the Installations).

6. YIELDING UP

- 6.1 If the Grantee ceases to conduct business on the Main Site for a period longer than one (1) year then the Grantor may serve a written notice requiring extinguishment of this easement at the expiration of one (1) year from the date of the notice unless the Grantee continues to conduct business by that date. If the Grantee fails to extinguish this easement then the Grantor may, by the service of written notice extinguish the easement three (3) months after service of that notice.
- 6.2 Upon extinguishment, the Grantee will at its cost promptly remove the Installations from the Servient Land, reinstate any damage done to the Servient Land resulting from such removal and sign and provide to the Grantor an Extinguishment of Easement in registrable form. If the Grantee fails to observe its obligations under this clause 6.2 it hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney.

Grantor initials *[Signature]*

Grantee initials *E. Metcalfe*

Form B1
Attach to inside
left hand corner

To be completed by lodging party

ANNEXURE to Grant of Easement dated 18/5/99
over Allotment 31 in Deposited Plan 52372

NUMBER
Office use on

8683993

Annexure A continued

7. DREDGING

- 7.1 If the Grantor determines that dredging of the Port Adelaide River is required at any time, the Grantor will provide the Grantee with one year's prior notice of any dredging activities which will require alteration or relocation of the Installations. In the event of any emergency or other unforeseen occurrence in which dredging activity is required where one year's notice is not possible, the Grantor is only required to give such notice as is reasonable having regard to the nature of the emergency or other occurrence.
- 7.2 Where dredging activities necessitate alteration to or relocation of the Installations, the Grantor will make all reasonable efforts to minimise the extent of disruption and the works required.
- 7.3 Any relocation or modifications to the Installations caused as a result of dredging will be carried out by the Grantee at the Grantee's expense. The Grantor will not be responsible for revenues foregone or liabilities or expenses incurred by the Grantee during or as a result of any such relocation or modifications.

8. EXTINGUISHMENT

- 8.1 Upon completion of construction of the Installations on the Servient Land the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement and the Grantor and Grantee will contemporaneously execute and register a new Grant of Easement containing identical terms to this Grant of Easement except that:
- (a) this clause 8 will be deleted from the new Grant of Easement;
 - (b) the land which will be subject to the new Grant of Easement will be comprised within the Servient Land but will be an area reduced in width to 100 metres provided that the land subject to the new Grant of Easement shall:
 - (i) not extend into the dredged channel of the Port Adelaide River despite the fact that this Grant of Easement may extend into that channel; and
 - (ii) be an area nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the installations are located centrally within the area the Grantor must agree.
- 8.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment and the new Grant of Easement as referred to above.
- 8.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and for the purpose of signing and registering the new Grant of Easement contemplated by clause 8.1. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 8.3 to register an Extinguishment of this Grant of Easement unless:

Grantor initials 

Grantee initials 

Approval No: 240

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/99</i> over Allotment <i>31</i> in Deposited Plan <i>52372</i>	NUMBER Office use only
---	---------------------------

Annexure A continued

- (a) the Grantee unreasonably delays observing and performing its obligations under clause 8.1; and
- (b) the Grantor lodges together with the Extinguishment a signed and stamped Grant of Easement as contemplated in clause 8.1.

9. GRANTEE'S COVENANTS

The Grantee covenants and agrees:

- 9.1 to affix to the Installations at all times such navigational aids and/or buoys as the Grantor may reasonably require;
- 9.2 that the outlet pipe will remain below the water level of the Port Adelaide River at low tide and will at all times rest on or in the river bed;
- 9.3 that no Installations shall extend into the dredged channel of the Port Adelaide River; and
- 9.4 that the water intake structure (excluding any navigational aids that may be attached to the water intake structure pursuant to clause 9.1 or clause 10) will not exceed 4.3 metres AHD;
- 9.5 subject to clauses 9.1, 9.4 and 10, all Installations shall remain below the water level of the Port Adelaide River at low tide;
- 9.6 to promptly make good, at the cost of the Grantee, any damage caused to the dredged channel of the Port Adelaide River through the operation of the Installations of which the Grantee is or should reasonably be aware.

10. GRANTOR'S COVENANTS

The Grantor covenants and agrees that the Grantor will not unreasonably refuse to consent to a request by the Grantee to install such navigational aids as the Grantee considers appropriate.

11. NOTICES

- 11.1 Without prejudice to any other method of service, any notice or other communication given by a party in connection with this Easement is deemed to have been duly given when made in writing and signed by the party or, in the case of a corporation, by any authorised officer of the party and sent by prepaid post or facsimile to the recipient party's address appearing in this Easement or to such other address as one party may notify to the other in writing.
- 11.2 Any notice or other communication sent by prepaid post shall be deemed to have been received at the expiration of 2 business days after the date of posting.

Grantor initials 

Grantee initials 

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>18/5/90</i> over Allotment <i>31</i> in Deposited Plan <i>52372</i>	NUMBER Office use only 8683993
---	---

Annexure A continued

11.3 Any notice or other communication sent by facsimile shall be deemed to have been received upon production by the sending party's facsimile machine of a transmission report indicating the facsimile has been successfully sent.

11.4 This method of determination of any dispute is without prejudice to the right of any party to have the dispute judicially determined by a South Australian Court of competent jurisdiction.

12. DISPUTE RESOLUTION

12.1 Any dispute which arises between the Grantor and the Grantee in relation to this Easement may be determined by a solicitor of the Supreme Court of South Australia appointed by the President at the relevant time of the South Australian Law Society Inc at the request of the Grantor or the Grantee.

12.2 The solicitor shall act as an expert and not as an arbitrator and the solicitor's determination is final and binding on both parties.

12.3 The costs of the solicitor's determination shall be borne equally by the Grantor and the Grantee.

13. COSTS

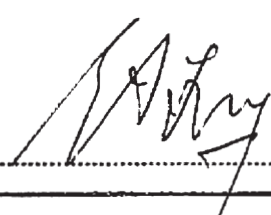
13.1 The Grantee and Grantor must pay their own costs (including legal costs) in relation to the preparation, negotiation and execution of this Easement.


13.2 The Grantee shall pay all stamp duty, registration fees and survey fees in connection with this Easement.

14. GENERAL PROVISIONS

14.1 No variation, modification or waiver of any provision of this Easement will be of any effect unless it is in writing signed by the parties or (in the case of a waiver) by the party giving it. Any variation, modification or waiver will be effective only to the extent to or for which it may be made or given.

14.2 No failure, delay, relaxation or indulgence by any party in exercising any legal, equitable, contractual, statutory or other right, power, authority, benefit, privilege, remedy, discretion or cause of action conferred on that party by this Easement will operate as a waiver of it, nor will any single or partial exercise nor any single failure to do so preclude any other or future exercise under this Easement.

Grantor initials 

Grantee initials 

Form B1
Attach to inside
left hand corner

<p>To be completed by lodging party</p> <p>ANNEXURE to Grant of Easement dated over Allotment in Deposited Plan</p>	<p>NUMBER Office use only</p>
<p style="text-align: center;">THIS PAGE IS INTENTIONALLY BLANK</p>	

Approval No: 240

DATED THE

18th

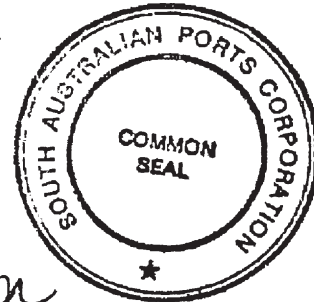
DAY OF

May

19 99

EXECUTION - GRANTOR

THE COMMON SEAL of SOUTH AUSTRALIAN PORTS CORPORATION was affixed hereto pursuant to a decision of the Board:



Director

G. A. Fry

PRINT NAME

G. A. FRY

Director

Yvonne Svedson

PRINT NAME

YVONNE SVEDSON

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

SIGNED by NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED ARBN 086 411 814 by its Attorney EDWARD METCALFE of 122 FROME STREET ADELAIDE 5000 pursuant to registered Power of Attorney No 8652333 in the presence of:

NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED ARBN 086 411 814 by its Attorney

E. Metcalfe

(Attorney to Sign)

Signature of Witness

William Peter Lait

Full Name of Witness (BLOCK LETTERS)

73 WAKFIELD STREET ADELAIDE

Address of Witness

Phone No: 8223 3777

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

NOW WHOLE OF THE LAND IN
G.T. VOL. 5658 FOL. 35

Certificate(s) of Title over which rights and liberties are being granted

Portion of seabed Out of Hundreds being the whole of the land comprised in Allotment 31 in Deposited Plan No. 52372/1 lodged contemporaneously herewith and being the whole of the land comprised in the Grantor's Application in accordance with Sec. 96 of the Real Property Act (dated 18 May 1999) lodged contemporaneously herewith. (Application No. 30888)

COMMISSIONER OF STATE TAXATION
STAMP DUTY PAID \$1.00
REGISTERED ONLY STAMPED
ORIGINAL with 2 copies
18/05/1999 14:19:06 0030997,1
Consideration / Value (\$100.00)
VOLUNTARY CONVEYANCE

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the South Australian Ports Corporation Act 1994 of 296 St Vincent Street, Port Adelaide SA 5015

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

NATIONAL POWER SOUTH AUSTRALIA INVESTMENTS LIMITED ARBN 086 411 814 of Level 26 Australia Square, 264-278 George Street Sydney NSW 2000

REQUISITIONS

(Do not detach)

Instrument No. 8683993 2. 12. 1993

Note 1: When amending do not delete pencil notes. See Statutes regarding Registrar-General for forms of Instruments, Government Gazette 1993 3(E)

Note 2: All requisitions must be completed within two months. Failure to do so will subject this document and any associated assets to special procedures - See Section 220(3b) of the Real Property Act.

3) as regards the grantee's acceptance under power of attorney is the in connection with the 'Transition Agreements' for the construction and operation of a Gas Field Plant to be constructed at Pelican Point Adelaide.

Tana Anderson

DO NOT DELAEM

O'LOUGHLINS
Barristers & Solicitors

24 May, 1999

Our ref: WPL:5311

Mr Jim Sullivan
Partner
Finlaysons
81 Flinders Street
ADELAIDE SA 5000

BY FACSIMILE: 8232 2944

Dear Mr Sullivan

Pelican Point -- Cooling Water Infrastructure Easement

I refer to the Grant of Easement (relating to the Cooling Water Infrastructure) signed on behalf of National Power South Australia Investments ("Company") on 14 May 1999 ("Easement") by its attorney, Edward Metcalfe. I understand that Registrar-General has sought confirmation from you regarding the terms of the Power of Attorney pursuant to which Dr Metcalfe executed the Easement.

I confirm our client's instruction that the Easement constitutes a Transaction Agreement for the purposes of the Power of Attorney dated 1 February 1999, being registered Power of Attorney 8652333. Essentially, any document effecting the contractual obligations of the Company under the Implementation Agreement (made between the company and the Treasurer of South Australia on 2 February 1999) is a Transaction Agreement for the purposes of that Power of Attorney. The Easement is specifically referred to in Clause 7.6(a) of the Implementation Agreement.

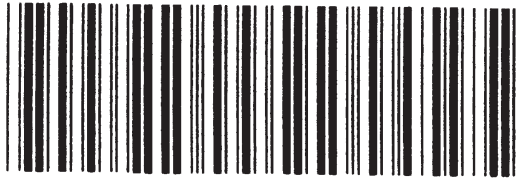
Please let me know if your require any further information regarding this Power of Attorney.

Yours faithfully
O'Loughlins

per 

Bill Last
Partner

8738031



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA


GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix	
21	TG	ORIGINAL (DUP)

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886




Jim Sullivan
Solicitor/Registered Conveyancer/Applicant

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 24 AUG 1999	Time: 11:50	
FEES		
R.G.O.	POSTAGE	NEW C.T.
82		

1	NEW CERTIFICATE(S) OF TITLE TO ISSUE
---	--------------------------------------

Easement in gross created hereunder DPS2663

CORRECTION Ex 50 7.3.2000	PASSED 
------------------------------	---

AGENT CODE

Lodged by: FINL

FINLAYSONS (FINL)
81 FLINDERS STREET
ADELAIDE S.A. 5000

Correction to: FINL

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

-
-
-
-
-

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS


-
-
-
-
-

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
Instrument title } Allotment 32 }	FINL

JMS:352364/1

REGISTERED 30 JUN 19 2000



REGISTRAR-GENERAL

Approval No: 916

EF 398

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

A full and unrestricted right and liberty over the whole of that portion of Allotment 32 marked "M" in Deposited Plan No 52663 (the *subject land*) for the Grantee and the Grantee's servants, agents, contractors and any person authorised by the Grantee (the *Grantee*), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, remove or remove and replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works on or installed under the subject land.

For Covenants See Annexure A

TO BE HELD IN GROSS AS PROVIDED BY SECTION 80J(4)
OF THE PETROLEUM ACT 1940

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party

ANNEXURE to Grant of Easement dated 4/8/99
Over Allotment 32 in DP 52663

NUMBER
Office use only

ANNEXURE A

COVENANTS

The Grantor and Grantee hereby covenant and agree as follows:

1. The Grantee agrees that the rights granted by the Grantor on page 2 of this Grant of Easement are subject to this clause 1. The Grantee agrees that any system of gas pipeline works and any replacements thereof must be located at or below the position of the gas pipeline as indicated on the attached plan. The Grantee acknowledges that the channel of the river may be dredged from time to time with the effect that the surface of the river bed of the dredged channel is wider and/or deeper than the dredged channel as at the date of this Grant of Easement. The Grantor will give notice to the Grantee before the Grantor carries out any dredging of the channel. If the Grantee locates the gas pipeline works as required by this clause, the Grantor agrees that it will not require the gas pipeline works to be relocated.
2.
 - 2.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee and/or the Grantee's, servants, agents, contractors and any other person authorised by the Grantee exercising its rights under this Easement.
 - 2.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
3.
 - 3.1 If a system of gas pipeline works is constructed on or under that portion of Allotment 32 marked "N" in Deposited Plan No 52663 (the *Related Easement*) then upon completion of construction of the works on the Related Easement the Grantee and Grantor will promptly execute and register an extinguishment of this Grant of Easement.
 - 3.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment of this Grant of Easement contemplated by clause 3.1.
 - 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 3.3 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>4/8/99</i> Over <i>Approval + 32 in DP 52663</i>	NUMBER Office use only
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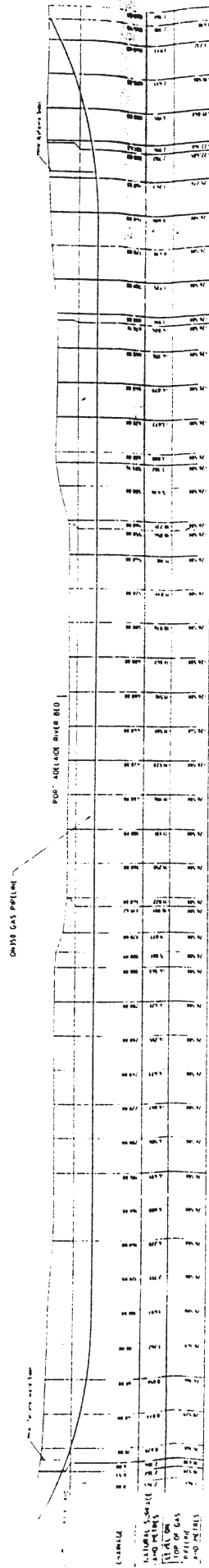
ANNEXURE A continued

- 4
- 4.1 If one or other of this Grant of Easement and the Related Easement is not extinguished on or before the date occurring five years after the date of this Grant of Easement then the Grantor and Grantee agree to forthwith sign and register an Extinguishment of this Grant of Easement.
 - 4.2 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee the Extinguishment of this Grant of Easement referred to in clause 4.1. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 4.2 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 4.1.

Page 5 of 9

PLAN

(Clause 1)



PORT ADELAIDE RIVER CROSS SECTION

- NOTES:
1. ALL DIMENSIONS REFER TO THE PORT ADELAIDE RIVER BARGE CANAL.
 2. THE BARGE CANAL IS 110 METERS WIDE AT THE HEAD OF THE CANAL.
 3. THE BARGE CANAL IS 110 METERS WIDE AT THE HEAD OF THE CANAL.
 4. THE BARGE CANAL IS 110 METERS WIDE AT THE HEAD OF THE CANAL.
 5. THE BARGE CANAL IS 110 METERS WIDE AT THE HEAD OF THE CANAL.

DO NOT SCALE		REFERENCE DIMENSIONS	
DATE	BY	SCALE	PROJECT
PROJECT TITLE: PORT ADELAIDE RIVER CROSS SECTION		DATE: 14/03/15	SCALE: 1:100
DRAWN BY: [Name]		CHECKED BY: [Name]	APPROVED BY: [Name]
PROJECT NO: 239PP - L-012		SHEET NO: 4	
EPIC ENERGY SOUTH AUSTRALIA PEELAN POINT LATERAL PEELING SECTION ACROSS PORT ADELAIDE RIVER			

DATED THE

4th

DAY OF

August

1999



EXECUTION - GRANTOR

THE COMMON SEAL of SOUTH AUSTRALIAN PORTS CORPORATION was affixed hereto pursuant to a decision of the Board:



N.R. Lemessurier
Director

G.A. Fry
Director

N.R. LEMESSURIER
PRINT NAME

G. A. FRY
PRINT NAME

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

EPIC ENERGY SOUTH AUSTRALIA PTY LTD by its duly authorised Attorney Ashley Lloyd Kellett of 25 Conyngham Street Glenside 5065 under Registered Power of Attorney No 8220723 who hereby states that he has no notice of revocation of the said Power of Attorney at the time of execution of this instrument in the presence of:

EPIC ENERGY SOUTH AUSTRALIA PTY LTD by its Attorney
Ashley Lloyd Kellett
Signature of Attorney
ASHLEY LLOYD KELLETT
Name of Attorney

J.H. Shields
Witness

JULIE HELEN SHIELDS
Name of Witness

5/17 ORANGE GROVE
KENSINGTON PARK SA 5068
Address of Witness

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

and Faeshol (Adelaide)
 Portion of the seabed Out of Hundreds being the whole of the land comprised in Allotment 32 in Deposited Plan No 52663 and being the whole of the land comprised in the Grantor's Application under section 115a of the Real Property Act 1886 dated 4 August 1999 lodged contemporaneously herewith. and being the whole of the land comprised in Application 30909
 NOW WHOLE OF THE LAND IN
 C.T. VOL. 5781 FOL. 361

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the South Australian Ports Corporation Act 1994 of 296 St Vincent Street Port Adelaide 5015

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street Glenside SA 5065

8738032



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

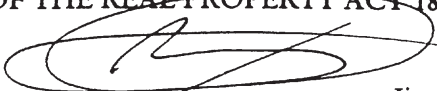
GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix	ORIGINAL (DUP)
32	TG	

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886



Jim Sullivan
Solicitor/Registered Conveyancer/Applicant

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 24 AUG 1999	Time: 11:50	
FEES		
R.G.O.	POSTAGE	NEW C.T.
82		42

2	NEW CERTIFICATE(S) OF TITLE TO ISSUE
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Eas in gross created herein and C1 for Albert 32 DP52663/

CORRECTION 7.3.2000	DP52663 EAS	PASSED 3
------------------------	----------------	-------------

subject to easement created herein and TG 8738031.

00733 1011799800010 66619042

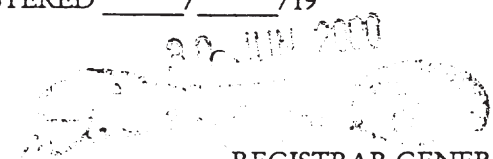
fee paid TG 8738031

E/F 8/97

22MAR1900 0200853864.110.

REGISTERED ___/___/19

24 JUN 2000



REGISTRAR-GENERAL

Approval No: 916

AGENT CODE

Lodged by: FINL

Correction to: FINL

Mr Sullivan
M. SULLIVAN 11/2/99
REGISTERED CONVEYANCER

FINLAYSONS (FINL)
81 FLINDERS STREET
ADELAIDE S.A. 5000

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

-
-
-
-
-

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

- *Statement in Gross - EPL*
- *Balance 1/4132, 1/5/2000*
-
-
-

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
<i>Statement C1</i>	FINL
<i>Balance 32</i>	

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

A full and unrestricted right and liberty over the whole of that portion of Allotment 32 marked "N" in Deposited Plan No. 52661 (the *subject land*) for the Grantee and the Grantee's servants, agents, contractors and any other persons authorised by the Grantee (the *Grantee*), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, boats, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, remove or remove and replace an underground pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising an underground system or systems of gas pipeline works under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works installed under the subject land.

For Covenants See Annexure A

TO BE HELD IN GROSS AS PROVIDED BY SECTION 80J(4)
OF THE PETROLEUM ACT 1940

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

To be completed by lodging party

ANNEXURE to Grant of Easement dated
over Allotment 32 in DP No 52663

418/99

NUMBER

Office use only

ANNEXURE A

COVENANTS

The Grantor and Grantee hereby covenant and agree as follows:

1. The Grantee agrees that the rights granted by the Grantor on page 2 of this Grant of Easement are subject to this clause 1. The Grantee agrees that any system of gas pipeline works and any replacements thereof must be located at or below the position of the gas pipeline as indicated on the attached plan. The Grantee acknowledges that the channel of the river may be dredged from time to time with the effect that the surface of the river bed of the dredged channel is wider and/or deeper than the dredged channel as at the date of this Grant of Easement. The Grantor will give notice to the Grantee before the Grantor carries out any dredging of the channel. If the Grantee locates the gas pipeline works as required by this clause, the Grantor agrees that it will not require the gas pipeline works to be relocated.
2.
 - 2.1 Except to the extent the same results from the negligent or wilful act or default of the Grantor, the Grantee hereby indemnifies and agrees to keep the Grantor forever indemnified from and against all loss, damage and expense the Grantor might suffer as a result of the Grantee and/or the Grantee's servants, agents, contractors and any other person authorised by the Grantee exercising its rights under this Easement.
 - 2.2 To the extent permitted by law, the Grantee hereby releases the Grantor from all claims and actions for loss, damage or expense the Grantee may suffer or incur arising out of this Easement provided that the Grantor is not released from liability for loss, damage and expense the Grantee suffers or incurs as a result of the Grantor's negligent or wilful act or default.
3.
 - 3.1 If a system of gas pipeline works is constructed on or under that portion of Allotment 32 marked "M" in Deposited Plan No 52663 (the *Related Easement*) then upon completion of construction of the works on the Related Easement the Grantee and Grantor will promptly execute and register an extinguishment of this Grant of Easement.
 - 3.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment of this Grant of Easement contemplated by clause 3.1.
 - 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 3.3 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>4/8/99</i> over Allotment 32 in DP No 52663	NUMBER Office use only
---	---------------------------

ANNEXURE A continued

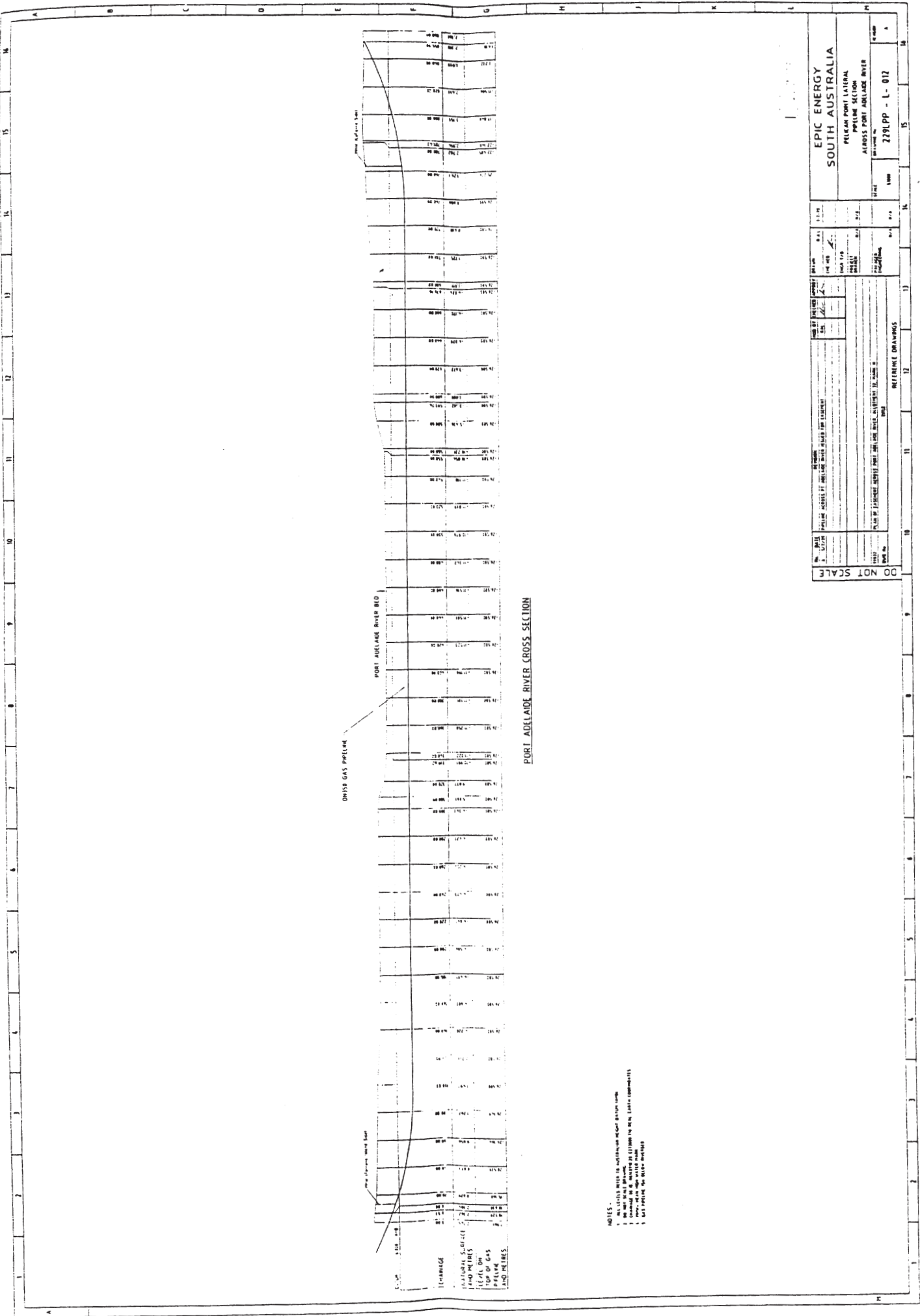
- 4 4.1 If one or other of this Grant of Easement and the Related Easement is not extinguished on or before the date occurring five years after the date of this Grant of Easement then the Grantor and Grantee agree to forthwith sign and register an Extinguishment of this Grant of Easement.

- 4.2 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee the Extinguishment of this Grant of Easement referred to in clause 4.1. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 4.2 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 4.1.

Page 5 of 9

PLAN

(Clause 1)



PORT ADLAIDE RIVER CROSS SECTION

EPIC ENERGY SOUTH AUSTRALIA

PELICAN POINT LATERAL
PREFORM SECTION
ACROSS PORT ADLAIDE RIVER

Project No: 229LPP - L - 012

Scale: 1:1000

Date: 11/11/11

Drawn by: [Name]

Checked by: [Name]

Approved by: [Name]

Reference Drawings:

DO NOT SCALE

- NOTES:
1. ALL DATA FROM THE CONTINENTAL SHEET GROUP.
 2. CORRECTIONS TO THE DATA HAVE BEEN MADE.
 3. CORRECTIONS TO THE DATA HAVE BEEN MADE.
 4. CORRECTIONS TO THE DATA HAVE BEEN MADE.
 5. DATA FROM THE SHEET GROUP.

GRANT OF EASEMENT

Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

and Foreshore (Adelaide)
 Portion of the seabed, Out of Hundreds being the whole of the land comprised in Allotment 32 in Deposited Plan No 52663 and being the whole of the land comprised in the Grantor's Application under section 115a of the Real Property Act 1886 dated 4 August 1999 lodged contemporaneously herewith. (Application 30909)

3
 2012 RG

NOW WHOLE OF THE LAND IN

C.T. VOL. 5781 FOL. 361

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the South Australian Ports Corporation Act 1994 of 296 St Vincent Street Port Adelaide 5015

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street Glenside SA 5065

LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
<i>B</i>	TG

8738034



ORIGINAL (DUP)

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 24 AUG 1999	Time: 11:50	
FEES		
R.G.O.	POSTAGE	NEW C.T.
82		98

EF \$98

2.	NEW CERTIFICATE(S) OF TITLE TO ISSUE
----	--------------------------------------

*Easement in gross created here
Balance CT.*

DP 52662.

CORRECTION EXSD <i>7.3.2000</i>	PASSED <i>[Signature]</i>
------------------------------------	------------------------------

00*28

01*7882580020 0061N447Z

REGISTERED	18 APR 2000

Approval No: 916

CERTIFIED CORRECT FOR THE PURPOSES
OF THE REAL PROPERTY ACT 1886

JIM SULLIVAN

Solicitor/Registered Conveyancer/Applicant

AGENT CODE

Lodged by: **FINLAYSONS (FINL)** FINL

Correction to: **81 FLINDERS STREET**
ADELAIDE S.A. 5000 FINL

38

TITLES, CROWN LEASES, DECLARATIONS ETC.
LODGED WITH INSTRUMENT (TO BE FILLED IN BY
PERSON LODGING)

1.
2.
3.
4.
5.

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS
FOLLOWS

1. *Easement in Gross - Transference*
2. *Balance Part cons. (Lot 33)*
3.
4.
5.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE
UNDERMENTIONED AGENTS

ITEM	AGENT CODE
<i>Easement title</i>	FINL
<i>ct for Alholmia 33</i>	FINL

JMS:352364/1

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE RIGHTS AND LIBERTIES BEING CREATED. DEFINE PRECISELY.

Its successors and assigns and its and their respective servants, agents and contractors and all others authorised by the Grantee (the *Grantee*) at all times hereafter and from time to time full and free right liberty licence power and authority over the whole of that portion of Allotment 33 marked "Q" in Deposited Plan Number 52662 (the *subject land*):

- (a) to enter upon and to pass either with or without boats, motor or other vehicles laden or unladen along or over the subject land; and
- (b) to install suspend and maintain along or over the subject land overhead conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same; and
- (c) to transmit electricity by means of such works.

For Covenants please see Annexure A

TO BE HELD APPURTENANT TO:-

HERE SET FORTH APPURTENANCE. DEFINE PRECISELY

Not applicable

To be completed by lodging party

ANNEXURE to Grant of Easement dated 4/8/99
over Allotment 33 in DP 52662

NUMBER
Office use only

ANNEXURE A

COVENANTS

The Grantor and Grantee hereby covenant and agree as follows:

1. The Grantee hereby agrees to indemnify the Grantor against all loss caused in the Grantee's exercise of its rights hereunder (a) by the Grantee and by its servants, agents, contractors and all others authorised by the Grantee or (b) by Act of God or (c) by inevitable accident.
2. Notwithstanding any other provision in this Grant of Easement, the Grantee covenants that where any electricity transmission lines are suspended above water the Grantee's rights under this Grant of Easement to suspend electricity transmission lines commences at 60 metres above the surface of the water at the highest astronomical tide.
3. 3.1 Upon completion of construction of the works necessary to transmit electricity by overhead transmission lines on the subject land the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement and the Grantor and Grantee will also contemporaneously execute and register a new Grant of Easement containing identical terms to this Grant of Easement except that:
 - (a) this Clause 3 and Clause 4 will be deleted from the new Grant of Easement;
 - (b) the land which will be subject to the new Grant of Easement will be comprised within the subject land being an area:
 - (i) reduced in width to 100 metres; and
 - (ii) nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the works are located centrally within the area the Grantor must agree.
- 3.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment and the new Grant of Easement as referred to above.
- 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 3.3 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.
4. 4.1 If the works necessary to transmit electricity by overhead transmission lines on the subject land are not completed on or before the date occurring five years after the date of this Grant of Easement then the Grantor and Grantee agree to forthwith sign and register an Extinguishment of this Grant of Easement.
- 4.2 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee the Extinguishment of this Grant of Easement referred to in clause 4.1. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 4.2 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 4.1.

Form B1
Attach to inside
left hand corner

To be completed by lodging party

ANNEXURE to Grant of Easement dated *4/8/99*
over Allotment 33 in DP 52662

NUMBER
Office use only

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Approval No: 240

DATED THE

4th

DAY OF

August

1999. ✓

EXECUTION - GRANTOR

THE COMMON SEAL of SOUTH AUSTRALIAN PORTS CORPORATION was affixed hereto pursuant to a decision of the Board:



N.C. WASSMANN
Director

[Signature]
Director

N.P. LEMESSURIER
PRINT NAME

B.A. FRY
PRINT NAME

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

SIGNED by ETSA TRANSMISSION CORPORATION by its duly Constituted Attorneys Vicki Marie Brown of 300 Pirie Street Adelaide SA 5000 who certifies that he/she is the Company Secretary and Jeffrey Gale Bament of 300 Pirie Street Adelaide SA 5000 who certifies that he/she is the Executive Manager Administrative Services pursuant to Power of Attorney Registered No 8572699 in the presence of: ✓

ETSA TRANSMISSION CORPORATION by its attorney

Vicki Brown
(Attorney to sign) Vicki Marie Brown
Vicki Brown
(Print name of Attorney)

[Signature]
(Attorney to sign)
Jeffrey Gale Bament
(Print name of Attorney)
Power of Attorney No 8572699

[Signature]
(Witness)

Adrian Kym Tero
(Name)
300 Pirie Street, Adelaide, SA 5000
(Address)
8404 7450
(Phone Number) ✓

GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

28 pro

Certificate(s) of Title over which rights and liberties are being granted

and Foreshore (Adelaide)
Portion of the seabed out of Hundreds being the whole of the land comprised in Allotment 33 in Deposited Plan ~~52662~~ Number 52662 and being the whole of the land comprised in the Grantor's Application under section 115a of the Real Property Act 1886 dated *12 August* 1999 lodged contemporaneously herewith *and being* the whole of the land comprised in *Application 30909A*

NOW WHOLE OF THE LAND IN
G.T. VOL. 5752 FOL. 619

COMMISSIONER OF STATE TAXATION

Estate or interest	Encumbrances	S.A. STAMP DUTY PAID	\$1.00
FEE SIMPLE ✓	Nil ✓	ADJUDGED DULY STAMPED	
		ORIGINAL with 2 copies	
		19/08/1999 10:28:22	00451916.2
		Consideration / Value (\$100.00)	
		VOLUNTARY CONVEYANCE	

Grantor(s) (Full Name and Address) ✓

SOUTH AUSTRALIAN PORTS CORPORATION a body corporate pursuant to the South Australian Ports Corporation Act 1994 of 296 St Vincent Street, Port Adelaide SA 5015

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

ETSA TRANSMISSION CORPORATION of 300 Pirie Street, Adelaide SA 5000 ✓

Finlaysons

LAWYERS

ALLENS
ARTHUR ROBINSON
GROUP

Our Ref MH:352364/1

Your Ref

22 March 2000

Registrar General
Lands Titles Office
101 Grenfell Street
ADELAIDE SA 5000

81 Flinders Street
Adelaide 5000 Australia
Tel 61 8 8235 7400
Fax 61 8 8232 2944

Correspondence
GPO Box 1244
Adelaide 5001
South Australia
DX 152
Adelaide

Attention: Tania Gudiskis

Dear Madam

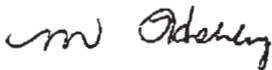
Requisition 8738034 - Pelican Point

We refer to your Requisition Nod 2 relating to the creation of Easement P and report that it is not the intention to create Easement P at this stage.

As you will be aware, the DP 52662 provides for the creation of Easements P and Q. These were alternate easements and we understand that the position of Easement Q was the preferred option.

Thank you for your continued assistance in this matter.

Yours faithfully,



Margaret Hobby
Registered Conveyancer
mh@finlaysons.com.au
8235 7521

38 FINL

8894091

LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
2	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

Jim Sullivan
 MALCOLM HOBBS Solicitor/Registered Conveyancer/Applicant

REGISTERED CONVEYANCER

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 22 MAY 2000	Time: 1130	
FEES		
R.G.O.	POSTAGE	NEW C.T.
82		49

AGENT CODE

Lodged by: FINLAYSONS FINL
 81 Flinders St.
 Correction to: Adelaide SA 5000 FINL
 Ph.: 235 7400

1	NEW CERTIFICATE(S) OF TITLE TO ISSUE
---	--------------------------------------

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

-
-
-
-
-

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. Easement title - E.P.C.
2. Balance G.L.C.
-
-
-

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
Easement title	FINL
Balance title	

JMS:352364/1:398797

22MAY1900 030105637L.1.0.

22MAY1900 030105636L.1.0.

CORRECTION	PASSED
	<i>[Signature]</i>
REGISTERED 5 17 19 2000	
<i>[Signature]</i>	
REGISTRAR-GENERAL SOUTH AUSTRALIA	

Approval No: 916

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

A full and unrestricted right and liberty over that portion of Certificate of Title Register Book Volume 5647 Folio 849 marked "U" in File Plan No 41121 (the *subject land*) for the Grantee and the Grantee's servants, agents, contractors and any person authorised by the Grantee (the *Grantee*), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, remove or remove and replace a pipeline together with mainline valve communications and power systems and other necessary works and apparatus comprising a system or systems of gas pipeline works on or under the subject land; and
- (e) to transmit or convey natural gas through any system of gas pipeline works on or installed under the subject land.

For Covenants please see Annexure A

TO BE HELD IN GROSS AS PROVIDED FOR BY SECTION 80J(4) OF THE PETROLEUM ACT 1940

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

091

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <i>19 May 2005</i> over Certificate of Title Volume 5647 Folio 849	NUMBER Office use only
---	---------------------------

ANNEXURE A

COVENANTS

The Grantor and Grantee hereby covenant and agree as follows:

1. The Grantee agrees to release and indemnify and to forever keep indemnified and agrees to hold harmless the Grantor (including its officers, employees, contractors, sub-contractors, agents and entities under its direction or control) from all liability, losses, actions, claims, demands, proceedings, awards, settlements, compensation, damages, costs and expenses (whether brought or incurred by the Grantee's officers, employees, contractors, sub-contractors, agents or entities under its direction or control or any other third party and whether relating to death, injury or illness to any person, direct, consequential or financial loss or damage suffered by any third party) to the extent the same is contributed to directly or indirectly by the exercise or purported exercise of any and all of the Grantee's rights under this Grant of Easement whether negligent, wilful or otherwise and from any act or omission of the Grantee or its contractors, sub-contractors, agents or entities under its direction or control (including, but not limited to any breach by the Grantee of its obligations under this Grant of Easement) whether negligent, wilful or otherwise relating to or in connection with this Grant of Easement. The Grantee shall not be responsible for any losses, actions, claims, demands, proceedings, awards, settlements, compensation, damages, costs or expenses to the extent the same are contributed to by the negligence of the Grantor.
2. Notwithstanding any other provision in this Grant of Easement the Grantee agrees that, apart from any signage or inspection points reasonably required on or above the subject land and any above ground pipeline facilities that the Grantee reasonably requires to be constructed or installed above the subject land after consulting with the Grantor, the system or systems of gas pipeline works will, promptly after the same commence operation, be located under the surface of the subject land.
3.
 - 3.1 If the works necessary to transmit or convey natural gas by a system or systems of gas pipeline and associated works are constructed on that portion of the land marked "T" in File Plan No 41121 as is comprised in Certificate of Title Register Book Volume 5647 Folio 850 the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement.
 - 3.2 The Grantee will pay all stamp duty and registration fees associated with the Extinguishment of this Grant of Easement.
 - 3.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 3.3 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.
4. The Grantee must pay to the Grantor the legal costs incurred by the Grantor in the negotiation of this and any previous draft of this Grant of Easement and any other related draft Grants of Easement which were not proceeded with.

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated 19 May 2000 over Certificate of Title Volume 5647 Folio 849	NUMBER Office use only
--	---------------------------

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EXECUTION - GRANTOR

The COMMON SEAL of
GENERATION LESSOR CORPORATION)
was affixed hereto in the)
presence of:)



[Handwritten Signature]
.....
Authorised Signatory

[Handwritten Signature]
.....
Authorised Signatory

TIMOTHY JOHN SPENCER
.....
Full Name of Signatory

LUIGI SALVATORE DE GENNARO
.....
Full Name of Signatory

DIRECTOR
.....
Position Held

DIRECTOR
.....
Position Held

DATED THE

19

DAY OF

May

19 2 000

EXECUTION - GRANTOR

~~SIGNED for and on behalf of~~
COMMONWEALTH OF AUSTRALIA
by the delegate of the Attorney-
General of Australia being a
person holding, occupying or
performing the duties of the
office of Director (Position No.
753) in the State of South
Australia in the presence of:

An officer of the Attorney-General's
Department of Australia

Full Name of Witness

Address of Witness

Telephone No

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

EPIC ENERGY SOUTH)
AUSTRALIA PTY LTD by its duly)
authorised Attorney Ashley Lloyd Kellett)
of 25 Conyngham Street Glenside SA 5065)
under Registered Power of Attorney No 8220723)
who hereby states that he has no notice)
of revocation of the said Power of Attorney)
at the time of execution of this instrument)
in the presence of:)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD
by its Attorney

Ashley L Kellett

Signature of Attorney

Ashley L Kellett

Name of Attorney

Glenys Smith
.....
Witness

Glenys Smith
.....
Name of Witness

31 Harlow Plc
.....
McDowall Q 4053
.....
Address of Witness

GRANT OF EASEMENT

091

Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5647 Folio 849

COMMISSIONER OF STATE TAXATION

STAMP DUTY

DOCUMENT 1 OF 1

17/12/2009 11:14:42 AM

STATE OF SOUTH AUSTRALIA

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

~~COMMONWEALTH OF AUSTRALIA~~ of Adelaide SA 5000

GENERATION LESSOR CORPORATION
of Australis House, 77 Grenfell Street, Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065

8894092



LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
3	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

M. Oshely
M. Oshely (HBB) ##
Solicitor/Registered Conveyancer/Applicant

AGENT CODE

Lodged by: FINLAYSONS 81 Flinders St. FINL
Adelaide SA 5000
Correction to: Ph.: 235 7400 FINL

86 22MAY1900 030105639L1.0.

88 22MAY1900 030105638L1.0.

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 24 MAY 2000	Time: 1130	
FEES		
R.G.O.	POSTAGE	NEW C.T.
82		98

2	NEW CERTIFICATE(S) OF TITLE TO ISSUE
---	--------------------------------------

CORRECTION	PASSED <i>[Signature]</i>
REGISTERED 5 17 149 2000	
 pro REGISTRAR-GENERAL 	

TITLE CROWN EASEMENT (TO BE FILLED IN BY PERSON LODGING WITH INSTRUMENT)

NEW CERTIFICATE TO ISSUE

1. Easement Grant No. (2)
2. Easement 1/9th width driveway
3. Balance C.T. Subject to the easement
- 4.
- 5.

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. Easement title E.P.C.
2. Balance G.L.
- 3.
- 4.
- 5.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
EASEMENT TITLE	FINL
BALANCE TITLE	

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

A full and unrestricted right and liberty over that portion of Certificate of Title Register Book Volume 5647 Folio 849 marked "V" in File Plan No 41121 (the *subject land*) for the Grantee and the Grantee's servants, agents, contractors and any person authorised by the Grantee (the *Grantee*), from time to time and at all times after the date of this Grant of Easement, to enter and exit from the subject land with or without motor vehicles, engines, plant and equipment and to remain on the subject land for any of the purposes set out in this Grant of Easement namely:-

- (a) to clear any vegetation or obstruction on the subject land;
- (b) to make surveys;
- (c) to dig, excavate and break the soil of the subject land;
- (d) to install, operate, maintain, repair, alter, inspect, remove or remove and replace any works, apparatus, mainline valve communications, power systems or other infrastructure associated with the Grantee's underground system or systems of gas pipeline works located on or under certain adjacent land.

For Covenants please see Annexure A

TO BE HELD IN GROSS AS PROVIDED FOR BY SECTION 30j(4) OF THE PETROLEUM ACT 1940

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

092

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated 19 May 2000 over Certificate of Title Volume 5647 Folio 849	NUMBER Office use only 8894092
--	--

ANNEXURE A

COVENANTS

The Grantor and the Grantee hereby covenant as follows:

1. The Grantee agrees to release and indemnify and to forever keep indemnified and agrees to hold harmless the Grantor (including its officers, employees, contractors, sub-contractors, agents and entities under its direction or control) from all liability, losses, actions, claims, demands, proceedings, awards, settlements, compensation, damages, costs and expenses (whether brought or incurred by the Grantee's officers, employees, contractors, sub-contractors, agents or entities under its direction or control or any other third party and whether relating to death, injury or illness to any person, direct, consequential or financial loss or damage suffered by any third party) to the extent the same is contributed to directly or indirectly by the exercise or purported exercise of any and all of the Grantee's rights under this Grant of Easement whether negligent, wilful or otherwise and from any act or omission of the Grantee or its contractors, sub-contractors, agents or entities under its direction or control (including, but not limited to any breach by the Grantee of its obligations under this Grant of Easement) whether negligent, wilful or otherwise relating to or in connection with this Grant of Easement. The grantee shall not be responsible for any losses, actions, claims, demands, proceedings, awards, settlements, compensation, damages, costs or expenses to the extent the same are contributed to by the negligence of the Grantor.
2.
 - 2.1 If the Grantee is required pursuant to clause 3.1 of a certain Grant of Easement dated contemporaneously with this Easement between the Grantor and the Grantee to extinguish the easement granted by the Grantor to the Grantee over that portion of the land in Certificate of Title Register Book Volume 5647 Folio 850 marked "U" in File Plan No 41121 the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement.
 - 2.2 The Grantee will pay all stamp duty and registration fees associated with the Extinguishment of this Grant of Easement.
 - 2.3 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 2.3 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 2.1.
3. The Grantee must pay to the Grantor the legal costs incurred by the Grantor in the negotiation of this and any previous draft of this Grant of Easement and any other related draft Grants of Easement which were not proceeded with.

Approval No: 240

Form B1
Attach to inside
left hand corner

To be completed by lodging party

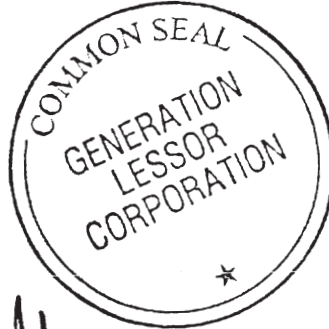
NUMBER
Office use only

ANNEXURE to Grant of Easement dated 19 May 2000
over Certificate of Title Volume 5647 Folio 849

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EXECUTION - GRANTOR

The COMMON SEAL of
GENERATION LESSOR CORPORATION
was affixed hereto in the
presence of:)




.....
Authorised Signatory

TIMOTHY JOHN SPENCER
.....
Full Name of Signatory

DIRECTOR
.....
Position Held


.....
Authorised Signatory

LUIGI SALVATORE DE GENNARO
.....
Full Name of Signatory

DIRECTOR
.....
Position Held

DATED THE

19

DAY OF

May

2000

EXECUTION - GRANTOR

SIGNED for and on behalf of
COMMONWEALTH OF AUSTRALIA
by the delegate of the Attorney-
General of Australia being a
person holding, occupying or
performing the duties of the
office of Director (Position No.
753) in the State of South
Australia in the presence of:

An officer of the Attorney-General's
Department of Australia

Full Name of Witness

Address of Witness

Telephone No

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

EPIC ENERGY SOUTH)
AUSTRALIA PTY LTD by its duly)
authorised Attorney Ashley Lloyd Kellett)
of 25 Conyngham Street Glenside 5065)
under Registered Power of Attorney)
No 8220723 who hereby states that)
he has no notice of revocation of the)
said Power of Attorney at the time of)
execution of this instrument in the presence of:)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD
by its Attorney

Ashley L Kellett
Signature of Attorney

ASHLEY L KELLETT
Name of Attorney

Glenys Smith
Witness

Glenys Smith
Name of Witness

31 Harlow Pl
McDowall 3105
Address of Witness

GRANT OF EASEMENT

092

Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5647 Folio 849

COMMISSIONER OF STATE TAXATION

S.A. STAMP DUTY

DOCUMENT 1 OF 1

19/05/2000 11:13:17

PROCESSED

EXEMPT / NOT CHARGEABLE

Estate or interest

Encumbrances

FEE SIMPLE

Nil

Grantor(s) (Full Name and Address)

~~COMMONWEALTH OF AUSTRALIA of Adelaide SA 5000~~

GENERATION LESSOR CORPORATION

of Australis House, 77 Grenfell Street, Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

EPIC ENERGY SOUTH AUSTRALIA PTY LTD ACN 068 599 815 of 25 Conyngham Street, Glenside SA 5065

8756922



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA


GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

Series No	Prefix
	TG

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886



JIM SULLIVAN
Solicitor

BELOW THIS LINE FOR OFFICE USE ONLY

Date: 24 SEP 1999	Time: 1530	
FEES		
R.G.O.	POSTAGE	NEW C.T.
82		49


1	NEW CERTIFICATE(S) OF TITLE TO ISSUE
---	--------------------------------------

The within grant is not affected by lease 824655.

240W/1998 at 11.35 NCT 49.00

2. NEW C.T. TO ISSUE
 CT 5402/58 subject eas. created herein
 24SEP1999 01003082L10
 Easement in gross created herein

Title producers do not carry forward on to balance title

CORRECTION Ex 30 27.10.1999	PASSED
REGISTERED 4/11/1999	
 REGISTRAR-GENERAL	

AGENT CODE

Lodged by: FINL

Correction to: FINL

39

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

1. CT 5402/578
 - 2.
 - 3.
 - 4.
 - 5.
- Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

1. CT 5402/578
- 2.
- 3.
- 4.
- 5.

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

ITEM	AGENT CODE
Duplicate Grant of Easement	FINL
Dominant and Servient Titles	FINL

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

its successors and assigns and its and their respective servants, agents, contractors and all others authorised by the Grantee at
all times hereafter and from time to time full and free right liberty licence power and authority over the whole of that
portion of land marked "S" in File Plan No 41121 (the *subject land*) as is comprised in Certificate of Title Register Book
Volume 5402 Folio 578: ✓ ✓ ✓

- (a) to enter upon and to pass either with or without motor or other vehicles laden or unladen along or over the subject
land; and ✓
- (b) to erect and lay on the subject land poles towers conductors and other works for the transmission of electricity and
to inspect repair alter remove and replace the same; and ✓
- (c) to transmit electricity by means of such works. ✓

For covenants please see Annexure A ✓

TO BE HELD APPURTENANT TO:-

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated <u>30/7/99</u> over Certificate of Title Volume 5402 Folio 578	NUMBER Office use only
ANNEXURE A	
COVENANTS	
The Grantor and Grantee hereby covenant and agree as follows:	
1. 1.1	That nothing herein contained shall prevent the Grantor from doing any one or more of the following:
	<ul style="list-style-type: none">(a) growing cereal or vegetable or other crops on the subject land;(b) inundating portions of the subject land with water for aquaculture purposes, subject to the Grantor obtaining the Grantee's prior agreement in writing (which shall not be unreasonably withheld);(c) erecting fences across the subject land provided that suitable gates shall be erected in such fences if required by the Grantee and at the expense of the Grantee to enable the Grantee to conveniently exercise its rights hereunder.
1.2	The Grantee hereby agrees to indemnify the Grantor against all loss caused in the Grantee's exercise of its rights hereunder (a) by the Grantee and by its servants, agents, contractors and all others authorised by the Grantee or (b) by Act of God or (c) by inevitable accident.
2. 2.1	Upon completion of construction of the works necessary to transmit electricity by overhead transmission lines on the subject land the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement and the Grantor and Grantee will also contemporaneously execute and register a new Grant of Easement containing identical terms to this Grant of Easement except that:
	<ul style="list-style-type: none">(a) this Clause 2 and Clause 3 will be deleted from the new Grant of Easement;(b) the land which will be subject to the new Grant of Easement will be comprised within the subject land being an area:<ul style="list-style-type: none">(i) reduced in width to 50 metres; and(ii) nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the works are located centrally within the area the Grantor must agree.
2.2	The Grantee will pay all stamp duty and registration fees associated with the extinguishment and the new Grant of Easement as referred to above.
2.3	The Grantee hereby irrevocably appoints the Grantor its Attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 2.3 to register an Extinguishment of this Grant of Easement unless:
	<ul style="list-style-type: none">(a) the Grantee unreasonably delays observing and performing its obligations under clause 2.1; and(b) the Grantor lodges together with the Extinguishment a signed and stamped new Grant of Easement as contemplated by clause 2.1.

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated 30/7/98 over Certificate of Title Volume 5402 Folio 578	NUMBER Office use only
--	---------------------------

ANNEXURE A

- 3. 3.1 If the works necessary to transmit electricity by overhead transmission lines on the subject land are not completed on or before the date occurring five years after the date of this Grant of Easement then the Grantor and Grantee agree to forthwith sign and register an Extinguishment of this Grant of Easement.
- 3.2 The Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee the Extinguishment of this Grant of Easement referred to in clause 3.1. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 3.2 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.

DATED THE

30th

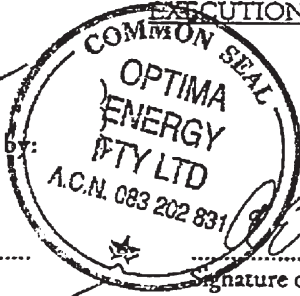
DAY OF

July

19 89

EXECUTION - GRANTOR

THE COMMON SEAL of
OPTIMA ENERGY PTY LTD
the fixing of which was witnessed by:



[Signature]

Signature of director

[Signature]

Signature of director/secretary

IAN RISCHMUELLER

Name of director

ANDREW WICKS

Name of director/secretary

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

SIGNED by ETSA TRANSMISSION CORPORATION by its duly constituted Attorneys

Vicki Marie Brown

of 300 Pirie Street Adelaide SA 5000 who certifies that he/she is the Company Secretary and Jeffrey Gale Bument of 300 Pirie Street Adelaide 5000

who certifies that he/she is the Executive Manager Administrative Services pursuant to Power of Attorney Registered No 8572699 in the presence of:

ETSA TRANSMISSION CORPORATION by its attorney

[Signature]

(Attorney to sign)

Vicki Marie Brown

[Signature]

(Print Name of Attorney)

[Signature]

(Attorney to sign)

Jeffrey Gale Bument

(Print Name of Attorney)

[Signature]

(Witness)

Power of Attorney No 8572699

Adrian Kym Tero

(Name)

300 Pirie Street, Adelaide, SA 5000

(Address)

8404 7450

(Phone Number)

GRANT OF EASEMENT

Pursuant to Section 96 of the Real Property Act 1886

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5402 Folio 578

COMMISSIONER OF STATE TAXATION

S.A. STAMP DUTY PAID \$1.00
 ADJUDGED DULY STAMPED
 ORIGINAL with 2 copies
 12/08/1999 16:36:54 00451914.1
 Consideration / Value (\$100.00)
 VOLUNTARY CONVEYANCE

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

OPTIMA ENERGY PTY LTD ACN 083 202 831 of 168 Greenhill Road Parkside 5063

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

ETSA TRANSMISSION CORPORATION of 300 Pirie Street Adelaide 5000

*Allens Arthur Robinson
(including Finlaysons)
Johnson Winter & Slattery*

LAWYERS

Our Ref JMS:352364/1

23 September 1999

The Registrar General
Adelaide Land Titles Office
Wyatt Street
ADELAIDE SA 5000

81 Flinders Street
Adelaide 5000 Australia
Tel 61 8 8235 7400
Fax 61 8 8232 2944

Correspondence
GPO Box 1244
Adelaide 5001
South Australia
DX 152
Adelaide

Dear Sir

**Grant of Easement as a Portion of the Land in Certificate of Title Volume
5402 Folio 578.**

I refer to the attached Grant of Easement which is lodged in duplicate.

I note that the Grantor's common seal has been affixed in red ink. I ask that the Grant of Easement be accepted for registration.

Yours faithfully



Jim Sullivan
Partner
jimsullivan@finlaysons.com.au
8235 7827

Encl Grant of Easement

Finlaysons

LAWYERS

Our Ref SAT:352364/1

Your Ref

1 November 1999

The Registrar General
Adelaide Lands Titles Office
Wyatt Street
ADELAIDE SA 5000

ATTENTION: Ms Tanya Gidiskis

Dear Sir

**Grant of Easement - Portion of the Land in Certificate of Title Volume
5402 Folio 578 Instrument No. 875692**

I refer to requisition dated 27 October 1999.

I am instructed that the easement is only to be over the area marked "S". It is not intended to be over the area marked in "R".

Yours faithfully



Steven Tarca
Partner
steventarca@finlaysons.com.au
8235 7818

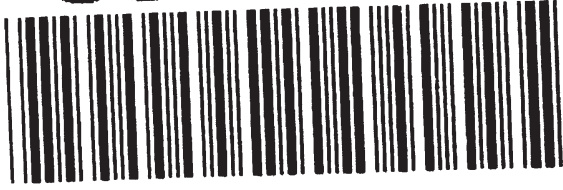
ALLENS
ARTHUR ROBINSON
GROUP

81 Flinders Street
Adelaide 5000 Australia
Tel 61 8 8235 7400
Fax 61 8 8232 2944

Correspondence
GPO Box 1244
Adelaide 5001
South Australia
DX 152
Adelaide

Unregistered 25.10.00

8920535



LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA GRANT OF EASEMENT

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR AGENT USE ONLY

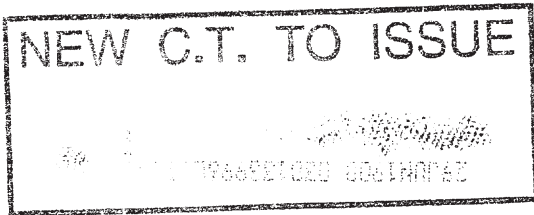
Table with Series No, Prefix, and ORIGINAL (DUP) stamp. Prefix is TG.

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886. Signed by Margaret Hobby, Solicitor/Registered Conveyancer.

BELOW THIS LINE FOR OFFICE USE ONLY

Table with Date (29 JUN 2000), Time (15:22), and FEES (R.G.O., POSTAGE, NEW C.T.)

NEW CERTIFICATE(S) OF TITLE TO ISSUE. Count: 2.



AGENT CODE

Lodged by: FINL. Correction to: FINLAYSONS 81 Flinders St. Adelaide SA 5000. Ph: 235 7400. FINL

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

- 1.
2.
3.
4.
5.

Assessor

PLEASE ISSUE NEW CERTIFICATES OF TITLE AS FOLLOWS

- 1. Government ...
2. Balance G.L.C.
3.
4.
5.

CORRECTION PASSED

REGISTERED ___/___/19 REGISTRAR-GENERAL

Approval No: 916

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENTS

Table with columns ITEM and AGENT CODE. Items include Government and Balance C.T. with AGENT CODE FINL.

THE GRANTOR ACKNOWLEDGES RECEIPT OF THE CONSIDERATION HEREIN EXPRESSED AND
HEREBY GRANTS TO THE GRANTEE

HERE SET FORTH THE
RIGHTS AND LIBERTIES
BEING CREATED.
DEFINE PRECISELY.

Its successors and assigns and its and their respective servants, agents, and contractors and all others authorised by the Grantee at all times hereafter and from time to time full and free right liberty licence power and authority over the whole of that portion of land marked "S" in Filed Plan No 41121 as is comprised in Certificate of Title Register Book Volume 5647 Folio 849 (the *subject land*):

- (a) to enter upon and to pass either with or without motor or other vehicles laden or unladen along or over the subject land; and
- (b) to erect and lay on the subject land poles towers conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same; and
- (c) to transmit electricity by means of such works.

For Covenants please see Annexure A

TO BE HELD APPURTENANT TO:-

HERE SET FORTH
APPURTENANCE.
DEFINE PRECISELY

Not applicable

Form B1
 Attach to inside
 left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated over Certificate of Title Volume 5647 Folio 849	NUMBER Office use only
--	---------------------------

ANNEXURE A

COVENANTS

The Grantor and Grantee hereby covenant and agree as follows:

1. The Grantee assumes the sole risk of the exercise or purported exercise of any and all of its rights pursuant to this Grant of Easement and any matter or thing relating to this Grant of Easement and the Grantee agrees to release and indemnify and to forever keep indemnified and agrees to hold harmless the Grantor (including its officers, employees, contractors, sub-contractors, agents and entities under its direction or control) from any and all liability, losses, actions, claims, demands, proceedings, awards, settlements, compensation, damages, costs and expenses (whether brought or incurred by the Grantee's officers, employees, contractors, sub-contractors, agents or entities under its direction or control or any other third party and whether relating to death, injury or illness to any person, direct, consequential or financial loss or damage suffered by any third party) directly or indirectly relating to, in the course of arising out of or from the exercise or purported exercise of any and all of the Grantee's rights under this Grant of Easement whether negligent, wilful or otherwise and from any act or omission of the Grantee or its contractors, sub-contractors, agents or entities under its direction or control (including, but not limited to any breach by the Grantee of its obligations under this Grant of Easement) whether negligent, wilful or otherwise relating to or in connection with this Grant of Easement.

2. 2.1 Upon completion of construction of the works necessary to transmit electricity by overhead transmission lines on the subject land the Grantee and Grantor will promptly execute and register an Extinguishment of this Grant of Easement the Grantor and Grantee will also contemporaneously execute and register a new Grant of Easement containing identical terms to this Grant of Easement except that:
 - (a) this clause 2 and clause 3 will be deleted from the new Grant of Easement;
 - (b) the land which will be subject to the new Grant of Easement will be comprised within the subject land but will be an area:
 - (1) reduced in width to 50 metres; and
 - (2) nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the works are located centrally within the area the Grantor must agree.

- 2.2 The Grantee will pay all stamp duty and registration fees associated with the extinguishment and the new Grant of Easement as referred to above.

Grantor Initials

Grantee Initials

Form B1
Attach to inside
left hand corner

To be completed by lodging party ANNEXURE to Grant of Easement dated over Certificate of Title Volume 5647 Folio 849	NUMBER Office use only
--	---------------------------

ANNEXURE A CONTINUED

- 2.3 The Grantee hereby irrevocably appoints the Grantor its Attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement and the new Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 2.3 to register an Extinguishment of this Grant of Easement unless:
- (2) the Grantee unreasonably delays observing and performing its obligations under clause 2.1; and
 - (3) the Grantor lodges together with the Extinguishment a signed and stamped new Grant of Easement as contemplated by clause 2.1.
3. 3.1 If the works necessary to transmit electricity by overhead transmission lines on the subject land are not completed on or before the date occurring five years after the date of this Grant of Easement then the Grantor and the Grantee agree to forthwith sign and register an Extinguishment of this Grant of Easement.
- 3.2 If clause 3.1 applies, then the Grantee hereby irrevocably appoints the Grantor its attorney for the purpose of signing and registering as the act and deed of the Grantee an Extinguishment of this Grant of Easement. The Grantee agrees to ratify all acts and things that the Grantor does pursuant to such power of attorney. The Grantor will not exercise its power of attorney under this clause 3.2 to register an Extinguishment of this Grant of Easement unless the Grantee unreasonably delays observing and performing its obligations under clause 3.1.
4. The Grantee must pay to the Grantor the legal costs incurred by the Grantor in the negotiation of this and any previous draft of this Grant of Easement and any other related draft Grants of Easement which were not proceeded with.

Grantor Initials

Grantee Initials

DATED THE

23

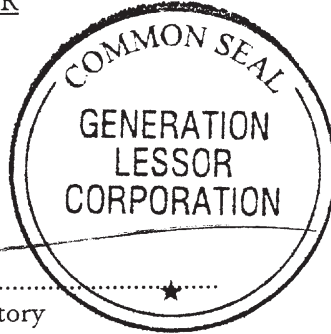
DAY OF

June

2000

EXECUTION - GRANTOR

THE COMMON SEAL of)
GENERATION LESSOR CORPORATION)
the fixing of which was witnessed by:)



T. J. Spencer
.....
Authorised Signatory

[Signature]
.....
Authorised Signatory

TIM SPENCER
.....
Name of Authorised Signatory

L.S. De Gennaro
.....
Name of Authorised Signatory

ACCEPTANCE (GRANTEE)

The within grant is hereby accepted

~~TRANSMISSION LESSOR CORPORATION~~
SIGNED by ~~ETSA TRANSMISSION CORPORATION~~)
by its duly constituted Attorneys)

~~TRANSMISSION LESSOR CORPORATION~~
~~ETSA TRANSMISSION CORPORATION~~
by its attorney

of VICKI MARIE BROWN
who certifies that he/she is the
COMPANY SECRETARY
and
of KYM MAYWELL SMART
who certifies that he/she is the
CHIEF EXECUTIVE OFFICER
pursuant to Power of Attorney
Registered No. 8891839 in the
presence of:

Vicki Brown
.....
Attorney to sign

VICKI BROWN
.....
Print name of Attorney

Kym Tothill
.....
Attorney to sign

K.M. TOTHILL
.....
Print name of Attorney

~~PHILIP LESLIE JONES~~
.....
(Witness)

Power of Attorney No. 8891839

PHILIP LESLIE JONES
.....
Print Name of Witness

300 PIRIE STREET
.....
ADOLAIKE SA 8000
.....
Address of Witness

8404 7238
.....
Daytime telephone number of Witness

I hereby certify that the within 7 pages are a photographic copy of Instrument No. 8920535 which is unregistered, and until such time that it is registered can be subject to change. This instrument is over Certificate of Title Register Book Volume 5647 Folio 849

Dated at Adelaide the 31st day of August 2000

Joe Carole

Pro Deputy Registrar-General



GRANT OF EASEMENT
Pursuant to Section 96 of the Real Property Act 1886

[Torrens Island - Approved Route]

Certificate(s) of Title over which rights and liberties are being granted

The whole of the land comprised in Certificate of Title Register Book Volume 5647 Folio 849

NOW WHOLE OF THE LAND IS:
C.T. VOL. 5808 FOL. 272

Estate or interest

FEE SIMPLE

Encumbrances

Nil

Grantor(s) (Full Name and Address)

GENERATION LESSOR CORPORATION of Australia House 77 Grenfell Street Adelaide SA 5000

Consideration

By mutual consent for no monetary consideration

Grantee(s) (Full Name, Address and Certificate of Title affected)

TRANSMISSION LESSOR CORPORATION
~~ETSA TRANSMISSION CORPORATION~~ of 300 Pirie Street Adelaide 5000

8944544



LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

REQUEST FOR TITLE FROM
LAND GRANT

Series No.	Prefix
	RLG

DATE: 16 AUG 2000	TIME: 4:09
NUMBER OF C(s).T. TO ISSUE: 1	
AUTHORITY: DENR 17/0901	
CROWN LEASES / CROWN RECORDS / TREASURY RECEIPTS AFFECTED	
TYPE VOLUME	FOLIO
1. Crown Record Volume 5070 Folio A2	
2.	
3.	

NO FEES PAYABLE

LODGED BY	AGENT CODE
CROWN TENURE UNIT	LTAB

NEW C.T. TO ISSUE

PICK UP N/A

WAITING DOCUMENT(S) IN TR BUNDLE..... N/A

DELIVERY INSTRUCTIONS PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDEMENTIONED AGENT(S)

Name and Address of Delivery Agent	
Transmission Lessor Corp	
300 Pirie St	
Adelaide	TLCO

FORWARD TO TITLE PRODUCTION

ITEM	AGENT CODE
New C.T. to issue	FINL (Box 38)

LAND GRANT

South Australia



BY COMMAND,

Palwan

Minister for Environment
and Heritage

James

Registrar-General

GRANT OF EASEMENT

MINISTER FOR ENVIRONMENT AND HERITAGE (hereinafter referred to as the Grantor) DOTH HEREBY on behalf of THE CROWN and by virtue of the provisions of the Crown Lands Act, 1929 and of all other powers thereunto and enabling him grant unto the Grantee a Right of Way and Easement over the land within described TO HOLD unto and to the use of the Grantee its Successors and Assigns for ever

GRANTEE OF AN EASEMENT

TRANSMISSION LESSOR CORPORATION OF 300 PIRIE STREET ADELAIDE SA 5000

DESCRIPTION OF LAND

PORTION OF ALLOTMENT 2 DEPOSITED PLAN 50073 MARKED S IN FILED PLAN 41121
HUNDRED OF PORT ADELAIDE
COUNTY OF ADELAIDE

EASEMENT RIGHTS

TO THE GRANTEE ITS SUCCESSORS AND ASSIGNS AND ITS AND THEIR RESPECTIVE SERVANTS AGENTS AND CONTRACTORS AND ALL OTHERS AUTHORISED BY THE GRANTEE AT ALL TIMES HEREAFTER AND FROM TIME TO TIME FULL AND FREE RIGHT LIBERTY LICENCE POWER AND AUTHORITY:

1. To enter upon and to pass either with or without motor or other vehicles laden or unladen along or over the subject land;
2. To erect and lay on the subject land poles towers conductors and other works for the transmission of electricity and to inspect repair alter remove and replace the same:
and
3. To transmit electricity by means of such works.
4. PROVIDED that nothing herein contained shall prevent the Grantor from erecting fences across the subject land Provided that suitable gates shall be erected in such fences if required by the Grantee and at the expense of the Grantee to enable the Grantee conveniently to exercise its rights hereunder AND the Grantee hereby agrees to indemnify the Grantor against all loss caused in the Grantee's exercise of its rights hereunder (a) by the Grantee and by its servants agents contractors and all others authorised by the Grantee or (b) by Act of God or (c) by inevitable accident

Continued on Sheet Two

- 5. 5.1 Upon completion of construction of the works necessary to transmit electricity by overhead transmission lines the Grantee and Grantor will promptly take all necessary action to transfer and cancel this Certificate of Title granted by the Grantor to the Grantee granting to the Grantee an easement to construct and operate an electricity transmission line on those portions of the subject land. The Grantor will contemporaneously grant to the Grantee a Certificate of Title granting to the Grantee an easement on substantially the same terms as the easement referred to above except that:
 - (a) the land which will be subject to the new easement will be comprised within the subject land but will be an area:
 - (i) reduced in width to 50 metres; and
 - (ii) nominated by the Grantee and agreed to by the Grantor. The Grantor must act reasonably. If the works are located centrally within the area the Grantor must agree.
 - (b) clause 5.1 and clause 5.2 will be deleted
- 5.2 The Grantee will promptly pay to the Grantor all Government fees notified to the Grantee associated with the actions contemplated by clause 5.1

The Common Seal of Minister for Environment and Heritage was affixed hereto this 8th day of August 2000 by the authority of the Minister in the presence of:



[Handwritten signature]

Certified correct,

DENR 17/0961
 KT170961ETSA

[Handwritten signature]

 Chief Documentary Officer