

Western Australia

Natural Gas (Canning Basin Joint Venture) Agreement Bill 2013

Contents

1.	Short title	2
2.	Commencement	2
3.	Terms used	2
4.	Ratification and authorisation	2
5.	State empowered under clause 30	2
6.	Effect on other laws	2

Schedule 1 — Natural Gas (Canning Basin Joint Venture) Agreement 2012

Defined terms

Western Australia

LEGISLATIVE ASSEMBLY

**Natural Gas (Canning Basin Joint Venture)
Agreement Bill 2013**

A Bill for

An Act to ratify, and authorise the implementation of, an agreement between the State and Buru Energy Limited, Diamond Resources (Fitzroy) Pty Ltd, Diamond Resources (Canning) Pty Ltd and Mitsubishi Corporation relating to the evaluation, development and exploitation of natural gas resources in the Canning Basin region of the State, and for incidental and other purposes.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Natural Gas (Canning Basin Joint Venture)*
3 *Agreement Act 2013*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
8 (b) the rest of the Act — on the day after that day.

9 **3. Terms used**

10 In this Act —

11 *scheduled agreement* means the agreement a copy of which is
12 set out in Schedule 1;

13 *the Agreement* means the scheduled agreement or, if it is varied
14 in accordance with its terms, that agreement as varied from time
15 to time.

16 **4. Ratification and authorisation**

- 17 (1) The scheduled agreement is ratified.
18 (2) The implementation of the Agreement is authorised.

19 **5. State empowered under clause 30**

20 The State has power in accordance with clause 30 of the
21 Agreement.

22 **6. Effect on other laws**

- 23 (1) The Agreement operates and takes effect despite any enactment
24 or other law.
25 (2) If a provision of the scheduled agreement expressly or by
26 implication purports to modify or exclude the application or
27 operation of an enactment for a purpose or in relation to a

1 person or thing, the application or operation of the enactment is
2 modified or excluded for that purpose, or in relation to that
3 person or thing, to the extent or for the period mentioned in the
4 provision or necessary for the provision to have effect.

5 (3) This section does not limit or otherwise affect the application of
6 the *Government Agreements Act 1979*.

**Schedule 1 — Natural Gas (Canning Basin Joint Venture)
Agreement 2012**

[s. 3]

2012

THE STATE OF WESTERN AUSTRALIA

and

BURU ENERGY LIMITED

ACN 130 651 437

DIAMOND RESOURCES (FITZROY) PTY LTD

ACN 145 113 177

DIAMOND RESOURCES (CANNING) PTY LTD

ACN 145 113 186

and

MITSUBISHI CORPORATION

**NATURAL GAS (CANNING BASIN JOINT VENTURE)
AGREEMENT 2012**

[Solicitor's details]

1 **THIS AGREEMENT** is made this seventh day of November 2012

2 **BETWEEN**

3 **THE HONOURABLE COLIN JAMES BARNETT**, MEc., M.L.A., Premier
4 of the State of Western Australia, acting for and on behalf of the said State and
5 its instrumentalities from time to time (hereinafter called the **State**) of the first
6 part

7 **AND**

8 **BURU ENERGY LIMITED** ACN 130 651 437 of Level 2, 97 William Street,
9 Perth, Western Australia, **DIAMOND RESOURCES (FITZROY) PTY LTD**
10 ACN 145 113 177 of Level 36, 120 Collins Street, Melbourne, Victoria and
11 **DIAMOND RESOURCES (CANNING) PTY LTD** ACN 145 113 186 of
12 Level 36, 120 Collins Street, Melbourne, Victoria (hereinafter collectively
13 called **the Joint Venturers** in which term shall be included their successors and
14 permitted assigns) of the second part

15 **AND**

16 **MITSUBISHI CORPORATION** of 3-1, Marunouchi 2-Chome, Chiyoda-Ku,
17 Tokyo, Japan (**Guarantor**) of the third part.

18 **WHEREAS:**

19 **A.** The Joint Venturers are the registered and beneficial holders of the
20 petroleum exploration permits listed in the Schedule and granted
21 under the *Petroleum and Geothermal Energy Resources Act 1967*
22 (WA).

23 **B.** The Joint Venturers are actively exploring the Title Areas for
24 petroleum including for the purposes of:

25 (a) evaluating the technical and economic viability of the natural
26 gas resources within the Title Areas (which areas are
27 prospective for both conventional and unconventional
28 resources); and

29 (b) proving up sufficient reserves of natural gas to underpin the
30 establishment and sustained operation of firstly the Domgas
31 Project (as hereinafter defined) and secondly the production
32 of liquefied natural gas for export to overseas purchasers.

- 1 **C.** The State, for the purposes of:
- 2 (a) encouraging accelerated expenditure by the Joint Venturers in
- 3 the continuing exploration and evaluation of natural gas
- 4 resources within the Title Areas; and
- 5 (b) promoting industrial development in Western Australia
- 6 generally; and
- 7 (c) promoting energy security in the said State in particular,
- 8 desires to facilitate the establishment of the Domgas Project and, if
- 9 the Joint Venturers so wish, of the LNG Project upon and subject to
- 10 the terms of this Agreement.

11 **NOW THIS AGREEMENT WITNESSES:**

12 **1. Definitions**

13 In this Agreement subject to the context:

14 **Aboriginal Heritage Act** means the *Aboriginal Heritage Act 1972*

15 (WA).

16 **advise, apply, approve, approval, consent, certify, direct, notice,**

17 **notify, request, or require,** means advise, apply, approve, approval,

18 consent, certify, direct, notice, notify, request or require in writing as

19 the case may be and any inflexion or derivation of any of those words

20 has a corresponding meaning.

21 **approved proposal** means a proposal approved or deemed to be

22 approved under this Agreement.

23 **Canning Basin** means the Canning Basin region of the said State.

24 **Commencement Date** means the day after the day on which the

25 Ratifying Act comes into operation.

26 **Commonwealth** means the Commonwealth of Australia and includes

27 the Government for the time being thereof.

28 **Contaminated Sites Act** means the *Contaminated Sites Act 2003*

29 (WA).

30 **DBNGP corridor** has the meaning given to it in the DBP Act.

- 1 **DBNGP Land Access Minister** means the corporation sole created
2 by section 29(1) of the DBP Act.
- 3 **DBP Act** means the *Dampier to Bunbury Pipeline Act 1997* (WA).
- 4 **Domgas** means natural gas for delivery and use in the said State. It
5 does not include natural gas to be exported or used in the production
6 of natural gas to be exported.
- 7 **Domgas Commitment** means the Joint Venturers' commitment in
8 respect of Domgas set out in clause 8 and to submit proposals for, and
9 establish and operate, a Domgas Project in accordance with approved
10 proposals pursuant to clauses 11, 12 and 13.
- 11 **Domgas Project** means the treatment of natural gas obtained from
12 within the Title Areas and, subject to this Agreement, from other
13 areas, to produce Domgas and, if the Joint Venturers so wish,
14 condensate and the conveyance of Domgas through the Domgas
15 Project Pipeline into the domestic gas pipeline network and all related
16 activities for that purpose including:
- 17 (a) the construction, operation and maintenance of Domgas
18 Project Treatment Plants, the Domgas Project Pipeline
19 (subject to clause 34) and any necessary pipeline connections
20 joining a Domgas Project Treatment Plant to the Domgas
21 Project Pipeline and the Domgas Project Pipeline to the
22 abovementioned domestic gas pipeline network; and
- 23 (b) other ancillary activities, services and facilities permitted to
24 be undertaken, provided or constructed as the case may be by
25 the Joint Venturers as part of such project in accordance with
26 this Agreement.
- 27 For the avoidance of doubt, the Domgas Project does not include:
- 28 (a) pre-treatment plants, wells, in-field and intra-field pipelines
29 and flow lines; or
- 30 (b) any extension of the Domgas Project Pipeline the
31 construction of which extension, the State (after consulting
32 the Joint Venturers) does not consider is a significant
33 modification, expansion or other variation of the Domgas
34 Project Pipeline.

- 1 **Domgas Project Operation Date** means the date upon which
2 Domgas produced as part of the Domgas Project is first delivered
3 through the Domgas Project Pipeline (other than for construction or
4 commissioning purposes) into the Western Australian domestic gas
5 market using the relevant connecting domestic gas pipeline network.
- 6 **Domgas Project Pipeline** means a pipeline (as defined in the
7 Pipelines Act (as modified by this Agreement)) commencing from a
8 Domgas Project Treatment Plant at a location in the Title Areas
9 agreed between the Minister and the Joint Venturers pursuant to
10 clause 10 and extending to and connecting to the domestic gas
11 pipeline network near Port Hedland or near Dampier in the said State
12 (unless the State otherwise approves another location in the north
13 west region of the said State, in which case near such other location)
14 to convey Domgas and which pipeline is, or is to be (as the case may
15 be), the subject of approved proposals pursuant to clauses 11 and 12
16 and includes any extension thereto or enlargement thereof that may be
17 approved in accordance with clause 13.
- 18 **Domgas Project Pipeline Corridor** means prior to the grant of the
19 Domgas Project Pipeline Easement, the land for the route of the
20 Domgas Project Pipeline, access roads and other infrastructure and
21 works which is agreed between the Minister and the Joint Venturers
22 pursuant to clause 10 and, after the grant of the Domgas Project
23 Pipeline Easement, the land from time to time the subject of the
24 Domgas Project Pipeline Easement.
- 25 **Domgas Project Pipeline Easement** means the easement granted or
26 to be granted (as the case may be) to the Joint Venturers under the
27 Pipelines Act (as modified by this Agreement) and in accordance with
28 clause 15(1)(b), as varied in accordance with clauses 15(7) or 15(8),
29 and according to the requirements of the context describes the area of
30 land from time to time the subject of the easement.
- 31 **Domgas Project Pipeline Licence** means the licence granted or to be
32 granted (as the case may be) to the Joint Venturers under the Pipelines
33 Act (as modified by this Agreement) and in accordance with
34 clause 15(1)(a) for the construction, operation and maintenance of the
35 Domgas Project Pipeline, as varied from time to time in accordance
36 with the Pipelines Act (as modified by this Agreement).

- 1 **Domgas Project Treatment Plant** means the treatment plant within
2 the Title Areas for the production of Domgas as part of the Domgas
3 Project referred to in the above definition of Domgas Project Pipeline
4 which treatment plant is, or is to be (as the case may be), the subject
5 of approved proposals pursuant to clauses 11 and 12 and any other
6 treatment plant within the Title Areas for the production of Domgas
7 as part of the Domgas Project which treatment plant is the subject of
8 approved proposals pursuant to clauses 11 and 12 or clause 13 and
9 includes any expansion of any such treatment plant that may be
10 approved in accordance with clause 13.
- 11 **Environmental Protection Act** means the *Environmental Protection*
12 *Act 1986* (WA).
- 13 **Government agreement** has the meaning given in the *Government*
14 *Agreements Act 1979* (WA).
- 15 **Land Act** means the *Land Administration Act 1997* (WA).
- 16 **Land Act Minister** means the Minister for Lands, a body corporate
17 under section 7 of the Land Act.
- 18 **Law** includes any applicable requirement of any statute, regulation,
19 proclamation, ordinance or by-law, present or future, and whether
20 State, Commonwealth or otherwise.
- 21 **laws relating to native title** means laws applicable from time to time
22 in Western Australia in respect of native title and includes the *Native*
23 *Title Act 1993* (Commonwealth).
- 24 **local government** means a local government established under the
25 Local Government Act.
- 26 **Local Government Act** means the *Local Government Act 1995*
27 (WA).
- 28 **LNG Precinct** means:
- 29 (a) the Burrup Peninsula region of the said State; or
- 30 (b) the strategic industrial area known at the date of this
31 Agreement as the Ashburton North Strategic Industrial Area
32 near Onslow in the said State; or

- 1 (c) such other liquefied natural gas precinct in the north west
2 region of the said State which the State may approve for the
3 purposes of this Agreement and which at the date of such
4 approval has been established or the establishment of which
5 the State has approved.

6 **LNG Production Facility** means a processing plant (whether owned
7 by the Joint Venturers or by a third party) within the Relevant LNG
8 Precinct for the production of liquefied natural gas for export.

9 **LNG Project** means the conveyance through the LNG Project
10 Pipeline of natural gas obtained from within the Title Areas and,
11 subject to this Agreement, from other areas to the LNG Production
12 Facility (or to a third party pipeline for conveyance to the LNG
13 Production Facility) for the production from it for export of liquefied
14 natural gas and, if the Joint Venturers so wish, condensate and all
15 related activities for that purpose including:

- 16 (a) the treatment (if required) of natural gas to be conveyed
17 through the LNG Project Pipeline to a standard suitable for
18 conveyance through the LNG Project Pipeline; and

19 (b) the construction, operation and maintenance of LNG Project
20 Treatment Plants, the LNG Project Pipeline and any
21 necessary pipeline connections joining a LNG Project
22 Treatment Plant to the LNG Project Pipeline and the LNG
23 Project Pipeline to the LNG Production Facility (or to a third
24 party pipeline for conveyance of the natural gas to the LNG
25 Production Facility); and

26 (c) other ancillary activities, services and facilities permitted to
27 be undertaken, provided or constructed as the case may be by
28 the Joint Venturers as part of such project in accordance with
29 this Agreement.

30 For the avoidance of doubt, the LNG Project does not include:

- 31 (a) pre-treatment plants, wells, in-field and intra-field pipelines
32 and flow lines; or

33 (b) any extension of the LNG Project Pipeline the construction of
34 which extension, the State (after consulting the Joint

1 Venturers) does not consider is a significant modification,
2 expansion or other variation of the LNG Project Pipeline.

3 **LNG Project Operation Date** means the date upon which natural gas
4 obtained from within the Title Areas is first conveyed through the
5 LNG Project Pipeline (other than for construction or commissioning
6 purposes) to the LNG Production Facility (or into the relevant
7 connecting third party pipeline for conveyance to the LNG Production
8 Facility).

9 **LNG Project Pipeline** means a pipeline (as defined in the Pipelines
10 Act (as modified by this Agreement)) commencing from a location in
11 the Title Areas agreed between the Minister and the Joint Venturers
12 pursuant to clause 20 and extending to and connecting to the LNG
13 Production Facility (or to a third party pipeline for conveyance to the
14 LNG Production Facility) which pipeline is, or is to be (as the case
15 may be), the subject of approved proposals pursuant to clauses 21 and
16 22 and includes any extension thereto or enlargement thereof that may
17 be approved in accordance with clause 23. For the avoidance of
18 doubt, the LNG Project Pipeline must be a separate pipeline to the
19 Domgas Project Pipeline.

20 **LNG Project Pipeline Corridor** means prior to the grant of the LNG
21 Project Pipeline Easement, the land for the route of the LNG Project
22 Pipeline, access roads and other infrastructure and works which is
23 agreed between the Minister and the Joint Venturers pursuant to
24 clause 20 and, after the grant of the LNG Project Pipeline Easement,
25 the land from time to time the subject of the LNG Project Pipeline
26 Easement.

27 **LNG Project Pipeline Easement** means the easement granted or to
28 be granted (as the case may be) to the Joint Venturers under the
29 Pipelines Act (as modified by this Agreement) and in accordance with
30 clause 15(2)(b), as varied in accordance with clauses 15(9) or 15(10),
31 and according to the requirements of the context describes the area of
32 land from time to time the subject of the easement.

33 **LNG Project Pipeline Licence** means the licence granted or to be
34 granted (as the case may be) to the Joint Venturers under the Pipelines
35 Act (as modified by this Agreement) and in accordance with
36 clause 15(2)(a) for the construction, operation and maintenance of the

1 LNG Project Pipeline, as varied from time to time in accordance with
2 the Pipelines Act (as modified by this Agreement).

3 **LNG Project Treatment Plant** means a plant within the Title Areas
4 for the treatment as part of the LNG Project of natural gas to a
5 standard suitable for conveyance through the LNG Project Pipeline
6 which treatment plant is, or is to be (as the case may be), the subject
7 of approved proposals pursuant to clauses 21 and 22 or 23 and
8 includes any expansion of such treatment plant that may be approved
9 in accordance with clause 23.

10 **Minister** means the Minister in the Government of Western Australia
11 for the time being responsible for the administration of the Ratifying
12 Act and pending the passing of that Act means the Minister for the
13 time being designated in a notice from the State to the Joint Venturers
14 and includes the successors in office of that Minister.

15 **natural gas** includes liquefied petroleum gas, liquefied natural gas
16 and compressed natural gas.

17 **Petrochemical feed stocks** means ethane, propane, butane and
18 condensate obtained from natural gas or other petroleum obtained
19 from within the Title Areas.

20 **Petroleum Act** means the *Petroleum and Geothermal Energy*
21 *Resources Act 1967* (WA).

22 **Petroleum Act Minister** means the Minister in the Government of
23 Western Australia for the time being responsible for the
24 administration of the Petroleum Act and includes the successors in
25 office of that Minister.

26 **Petroleum Act Department** means the department in the
27 Government of Western Australia for the time being principally
28 responsible for assisting the Petroleum Act Minister in the
29 administration of the Petroleum Act.

30 **Petroleum Titles** means, subject to clause 14(3):

31 (a) the petroleum exploration permits granted under the
32 Petroleum Act and listed in the Schedule, including any
33 extensions or renewals thereof; and

- 1 (b) any other petroleum exploration permits granted under the
2 Petroleum Act which are approved by the Minister as
3 Petroleum Titles pursuant to clause 14(2), including any
4 extensions or renewals thereof; and
- 5 (c) each petroleum exploration permit granted under section 37A
6 of the Petroleum Act in respect of a petroleum exploration
7 permit which prior to such grant was a Petroleum Title,
8 including any extensions or renewals thereof; and
- 9 (d) any petroleum drilling reservations granted under the
10 Petroleum Act which are approved by the Minister as
11 Petroleum Titles pursuant to clause 14(2), as extended; and
- 12 (e) each petroleum retention lease granted under the Petroleum
13 Act in respect of one or more blocks within a petroleum
14 exploration permit or a petroleum drilling reservation which,
15 in each case, is a Petroleum Title, including any renewals of
16 such petroleum retention lease; and
- 17 (f) each petroleum production licence granted under the
18 Petroleum Act in respect of one or more blocks within a
19 petroleum exploration permit, petroleum drilling reservation
20 or a petroleum retention lease which, in each case, is a
21 Petroleum Title, excluding petroleum production licences
22 granted pursuant to applications STP-PRA 004 and 005.

23 **Pipeline Easements** means:

- 24 (a) subject to clause 34, the Domgas Project Pipeline Easement;
25 and
- 26 (b) subject to clauses 35(6) and 39(6), the LNG Project Pipeline
27 Easement.

28 **Pipeline Licences** means:

- 29 (a) subject to clause 34, the Domgas Project Pipeline Licence;
30 and
- 31 (b) subject to clauses 35(6) and 39(6), the LNG Project Pipeline
32 Licence.

33 **Pipelines Act** means the *Petroleum Pipelines Act 1969* (WA).

- 1 **Pipelines Act Minister** means the Minister in the Government of
2 Western Australia for the time being responsible for the
3 administration of the Pipelines Act and includes the successors in
4 office of that Minister.
- 5 **Plan** means the plan marked "A" initialled by or on behalf of the
6 parties hereto for the purpose of identification.
- 7 **Port** means a port established under the *Port Authorities Act 1999*
8 (WA).
- 9 **private roads** means the roads referred to in clause 17 and any other
10 roads (whether within or outside the Pipeline Easements) constructed
11 by the Joint Venturers in accordance with approved proposals or
12 agreed by the parties to be a private road for the purposes of this
13 Agreement.
- 14 **Project Pipelines** means;
15 (a) subject to clause 34, the Domgas Project Pipeline; and
16 (b) subject to clauses 35(6) and 39(6), the LNG Project Pipeline.
- 17 **Project Titles** means:
18 (a) the Domgas Project Pipeline Easement; and
19 (b) the LNG Project Pipeline Easement; and
20 (c) any leases, licences or other easements granted to the Joint
21 Venturers in accordance with clause 15(3); and
22 (d) any DBP Act section 41(2)(b) approvals or DBP Act
23 section 34 access rights granted to the Joint Venturers
24 pursuant to this Agreement.
- 25 **Ratifying Act** means the Act that ratifies this Agreement.
- 26 **Relevant LNG Precinct** means the LNG Precinct agreed between the
27 Minister and the Joint Venturers pursuant to clause 20.
- 28 **said State** means the State of Western Australia.
- 29 **Suspension Period** means the period commencing on the
30 Commencement Date and expiring on 31 January 2020.

1 **this Agreement, hereof and hereunder** refer to this Agreement,
2 whether in its original form or as from time to time added to, varied or
3 amended.

4 **Title Areas** means the areas which from time to time during the
5 continuance of this Agreement are the subject of the Petroleum Titles.

6 **2. Interpretation**

7 (1) In this Agreement:

- 8 (a) monetary references are references to Australian currency
9 unless otherwise specifically expressed;
- 10 (b) power given under any clause other than clause 37 to extend
11 any period or date shall be without prejudice to the power of
12 the Minister under clause 37;
- 13 (c) clause headings do not affect interpretation or construction;
- 14 (d) words in the singular shall include the plural and words in the
15 plural shall include the singular according to the requirements
16 of the context;
- 17 (e) one gender includes the other gender;
- 18 (f) a covenant or agreement by more than one person binds, and
19 is enforceable against, those persons jointly and each of them
20 severally;
- 21 (g) reference to an Act includes the amendments to that Act for
22 the time being in force and also any Act passed in
23 substitution therefor or in lieu thereof and the regulations for
24 the time being in force thereunder;
- 25 (h) reference in this Agreement to any other document includes
26 that document as from time to time added to, varied or
27 amended and notwithstanding any change in the identity of
28 the parties;
- 29 (i) reference to a clause or schedule is a reference to a clause or
30 schedule to this Agreement, and a reference to a subclause or
31 paragraph is a reference to the subclause of the clause or
32 paragraph of the clause or subclause as the case may be in, or
33 in relation to, which the reference is made;

- 1 (j) a reference to this Agreement includes the Plan and any
2 recital, schedule or annexure;
- 3 (k) "including" means "including, but not limited to"; and
- 4 (l) reference to a "person" includes a body corporate.
- 5 (2) Nothing in this Agreement shall be construed:
- 6 (a) to exempt the State or the Joint Venturers from compliance
7 with or to require the State or the Joint Venturers to do
8 anything contrary to any law relating to native title or any
9 lawful obligation or requirement imposed on the State or the
10 Joint Venturers as the case may be pursuant to any law
11 relating to native title; or
- 12 (b) to exempt the Joint Venturers from compliance with any
13 requirement in connection with the protection of the
14 environment arising out of or incidental to its activities under
15 this Agreement that may be made by or under the
16 Environmental Protection Act, the Contaminated Sites Act,
17 the Petroleum Act (as modified by this Agreement) or the
18 Pipelines Act (as modified by this Agreement); or
- 19 (c) to exempt the Joint Venturers from compliance with the
20 provisions of the Aboriginal Heritage Act (as modified by
21 this Agreement).
- 22 **3. Ratification and operation**
- 23 (1) The State shall introduce and sponsor a Bill in the State Parliament of
24 Western Australia prior to 31 December 2012 or such later date as
25 may be agreed between the parties hereto to ratify this Agreement.
26 The State shall endeavour to secure the timely passage of such Bill as
27 an Act.
- 28 (2) The provisions of this Agreement other than this clause and clauses 1
29 and 2 will not come into operation until the day after the day on
30 which the Bill referred to in subclause (1) has been passed by the
31 State Parliament of Western Australia and commences to operate as
32 an Act.
- 33 (3) If by 31 December 2013 the said Bill has not commenced to operate
34 as an Act then, unless the parties hereto otherwise agree, this

1 Agreement will then cease and determine and no party hereto will
2 have any claim against any other party hereto with respect to any
3 matter or thing arising out of, done, performed, or omitted to be done
4 or performed under this Agreement.

5 (4) On the day after the day on which the said Bill commences to operate
6 as an Act all the provisions of this Agreement will operate and take
7 effect despite any enactment or other law.

8 **4. Initial obligations of the State**

9 (1) The State shall subject to the adequate protection of the environment
10 (including flora and fauna) and the land affected (including
11 improvements thereon) arrange for the issue of requisite authority
12 under any one or more of (as determined by the State in its
13 discretion):

14 (a) section 91 of the Land Act; or

15 (b) section 7 of the Pipelines Act; or

16 (c) section 182 of the Land Act,

17 to allow the Joint Venturers to enter upon Crown land within the
18 meaning of the Land Act or the Pipelines Act as the case may be
19 (including, if applicable, land the subject of a pastoral lease but
20 excluding land within a Port or the DBNGP corridor) with plant and
21 equipment to carry out all works to the extent reasonably necessary
22 for the purposes of undertaking its obligations under
23 clause 5(1)(b)(ii).

24 (2) For the purposes of paragraph (c) of subclause (1), section 182 of the
25 Land Act shall apply as if the Domgas Project is a proposed public
26 work for which the Land Act Minister is under that section authorised
27 to take interests in land within the meaning of that section.

28 (3) The Joint Venturers acknowledge that they shall be responsible for
29 obtaining in a form and substance acceptable to the Minister all
30 unconditional and irrevocable consents of each person whose consent
31 the relevant grantor (acting with the concurrence of the Minister)
32 requires for the grant of any requisite authority referred to in
33 subclause (1).

5. Initial obligations of the Joint Venturers

(1) The Joint Venturers shall:

(a) continue to explore and evaluate the Title Areas in accordance with their obligations under the Petroleum Act (as modified by this Agreement) as holders of the relevant Petroleum Titles; and

(b) in addition undertake field and office geological, geophysical, geotechnical, engineering and environmental investigations, appraisals and studies and in due course marketing and finance studies and other matters necessary for them:

(i) to prove up sufficient reserves of natural gas within the Title Areas to underpin the establishment and sustained operation of a technically and economically viable Domgas Project; and

(ii) subject to subparagraph (i), to finalise and to submit to the Minister the detailed proposals referred to in clause 11.

(2) The Joint Venturers shall keep the State fully informed in writing at 6 monthly intervals from the Commencement Date as to the progress and results of their investigations, appraisals, studies and other matters undertaken by them under subclause (1)(b) and supply to the Minister such information in relation thereto as the Minister may request from time to time.

(3) The Joint Venturers shall co-operate with the State and consult with the representatives or officers of the State regarding matters referred to in subclauses (1) and (2) and any other relevant studies in relation to those subclauses that the Minister may reasonably request the Joint Venturers to undertake.

(4) For the purposes of this Agreement in relation to the undertaking or proposed undertaking of the Domgas Project or the LNG Project the Aboriginal Heritage Act applies as if it were modified by:

(a) the insertion before the full stop at the end of section 18(1) of the words:

"and the expression "the Joint Venturers" means the persons from time to time comprising "the Joint Venturers" in their

- 1 capacity as such under the agreement made on or about
2 6 November 2012 between The Honourable Colin James
3 Barnett, Premier of the State of Western Australia acting for
4 and on behalf of the said State and its instrumentalities from
5 time to time, Buru Energy Limited ACN 130 651 437,
6 Diamond Resources (Fitzroy) Pty Ltd ACN 145 113 177,
7 Diamond Resources (Canning) Pty Ltd ACN 145 113 186
8 and Mitsubishi Corporation, as varied from time to time, in
9 relation to the use or proposed use of land pursuant to that
10 agreement after and in accordance with approved proposals
11 under that agreement and in relation to the use of that land
12 before any such approval of proposals where the Joint
13 Venturers have the requisite authority to enter upon and so
14 use the land";
- 15 (b) the insertion in sections 18(2), 18(4), 18(5) and 18(7) of the
16 words "or the Joint Venturers as the case may be" after the
17 words "owner of any land";
- 18 (c) the insertion in section 18(3) of the words "or the Joint
19 Venturers as the case may be" after the words "the owner";
- 20 (d) the insertion of the following sentences at the end of
21 section 18(3):
- 22 "In relation to a notice from the Joint Venturers the
23 conditions that the Minister may specify can as appropriate
24 include, among other conditions, a condition restricting the
25 Joint Venturers' use of the relevant land to after the approval
26 or deemed approval as the case may be under the
27 abovementioned agreement of all the Joint Venturers
28 submitted detailed proposals for the Domgas Project or the
29 LNG Project (as each is defined in the above-mentioned
30 agreement), as the case may be, or in the case of additional
31 proposals submitted or to be submitted by the Joint Venturers
32 to after the approval or deemed approval under that
33 agreement of such additional proposals, and to the extent so
34 approved." and
- 35 (e) the insertion in sections 18(2) and 18(5) of the words "or it as
36 the case may be" after the word "he".

1 The Joint Venturers acknowledge that nothing in this subclause nor
2 the granting of any consents under section 18 of the Aboriginal
3 Heritage Act will constitute or be construed as constituting the
4 approval of any proposals submitted or to be submitted by the Joint
5 Venturers under this Agreement or as the grant or promise of any land
6 tenure for the purposes of this Agreement.

7 **6. Community development plan**

8 (1) In this clause, the term "community and social benefits" includes:

- 9 (a) assistance with skills development and training opportunities
10 to promote work readiness and employment for persons
11 living in the north west region of the said State; and
- 12 (b) regional development activities in the north west region of the
13 said State including partnerships and sponsorships; and
- 14 (c) contribution to any community projects, town services or
15 facilities having regard to the impact of the Domgas Project
16 or the LNG Project as the case may be on towns or
17 communities in the north west region of the said State.

18 (2) The Joint Venturers acknowledge the need for community and social
19 benefits flowing from this Agreement.

20 (3) The Joint Venturers agree that, prior to the time at which they submit
21 any proposals pursuant to clause 11 and, if required by the Minister,
22 prior to the time at which they submit any proposals pursuant to
23 clauses 13, 21 or 23, they shall:

- 24 (a) prepare a plan which describes the Joint Venturers' proposed
25 strategies for achieving community and social benefits in
26 connection with the developments proposed; and
- 27 (b) submit to the Minister the plan prepared pursuant to
28 subclause (3)(a) and confer with the Minister in respect of the
29 plan.

30 (4) The Minister shall within one month after receipt of a plan submitted
31 under subclause (3)(b), either notify the Joint Venturers that the
32 Minister approves the plan as submitted or notify the Joint Venturers
33 of changes which the Minister requires be made to the plan. If the
34 Joint Venturers are unwilling to accept the changes which the

- 1 Minister requires they shall notify the Minister to that effect and
2 either party may refer to arbitration hereunder the question of the
3 reasonableness of the changes required by the Minister.
- 4 (5) The effect of an award made on an arbitration pursuant to
5 subclause (4) shall be that the plan submitted by the Joint Venturers
6 pursuant to subclause (3)(b) shall, with such changes required by the
7 Minister under subclause (4) as the arbitrator determines to be
8 reasonable (with or without modification by the arbitrator), be deemed
9 to be the plan approved by the Minister under this clause.
- 10 (6) During the currency of this Agreement, the Joint Venturers shall
11 implement the plan approved or deemed to be approved by the
12 Minister under this clause.
- 13 (7) The Joint Venturers shall at least annually report to the Minister about
14 the Joint Venturers' implementation of the plan approved or deemed
15 to be approved by the Minister under this clause.
- 16 (8) At the request of either of them made at any time and from time to
17 time, the Minister and the Joint Venturers shall confer as to any
18 amendments desired to any plan approved or deemed to be approved
19 by the Minister under this clause and may agree to amendment of the
20 plan or adoption of a new plan. Any such amended plan or new plan
21 will be deemed to be the plan approved by the Minister under this
22 clause.
- 23 **7. Local industry participation plan**
- 24 (1) In this clause, the term "local industry participation benefits" means:
- 25 (a) the use and training of labour available within the said State;
26 and
- 27 (b) the use of the services of engineers, surveyors, architects and
28 other professional consultants, experts, specialists, project
29 managers and contractors available within the said State; and
- 30 (c) the procurement of works, materials, plant, equipment and
31 supplies from Western Australian suppliers, manufacturers
32 and contractors.
- 33 (2) The Joint Venturers acknowledge the need for local industry
34 participation benefits flowing from this Agreement.

- 1 (3) The Joint Venturers agree that they shall prepare and, in accordance
2 with clause 11(8)(c), provide to the Minister a plan which contains in
3 connection with the development proposed or to be proposed as the
4 case may be pursuant to clause 11:
- 5 (a) a clear statement on the strategies which the Joint Venturers
6 will use, and require a third party as referred to in
7 clause 27(2) to use, to maximise the uses and procurement
8 referred to in subclause (1); and
- 9 (b) detailed information on the procurement practices the Joint
10 Venturers will adopt, and require a third party as referred to
11 in clause 27(2) to adopt, in calling for tenders and letting
12 contracts for works, materials, plant, equipment and supplies
13 and how such practices will provide full fair and reasonable
14 opportunity for suitably qualified Western Australian
15 suppliers, manufacturers and contractors to tender or quote
16 for works, materials, plant, equipment and supplies; and
- 17 (c) detailed information on the methods the Joint Venturers will
18 use, and require a third party as referred to in clause 27(2) to
19 use, to have their respective procurement officers promptly
20 introduced to Western Australian suppliers, manufacturers
21 and contractors seeking such introduction; and
- 22 (d) details of the communication strategies the Joint Venturers
23 will use, and require a third party as referred to in
24 clause 27(2) to use, to alert Western Australian engineers,
25 surveyors, architects and other professional consultants,
26 experts, specialists and project managers and Western
27 Australian suppliers, manufacturers and contractors to
28 services opportunities and procurement opportunities
29 respectively as referred to in subclause (1).
- 30 It is acknowledged by the Joint Venturers that the strategies of the
31 Joint Venturers referred to in subclause (3)(a) will include strategies
32 of the Joint Venturers in relation to the supply of services, labour,
33 works, materials, plant and equipment or supplies for the purposes of
34 this Agreement.
- 35 (4) During the currency of this Agreement the Joint Venturers shall
36 implement the plan provided in compliance with this clause.

1 (5) At the request of either of them made at any time and from time to
2 time, the Minister and the Joint Venturers shall confer as to any
3 amendments desired to any plan provided in compliance with this
4 clause and may agree to the amendment of the plan or the provision of
5 a new plan in substitution for the one previously provided.

6 (6) The provisions of subclauses (3) and (4) shall apply mutatis mutandis
7 to any development proposed or to be proposed as the case may be
8 pursuant to clauses 13, 21 or 23 (unless the Minister otherwise
9 requires).

10 **8. Domgas Commitment**

11 (1) The parties acknowledge for the purposes of this clause and
12 clauses 10 and 11 that it is their common aspiration that the Joint
13 Venturers will, subject to the proving up of sufficient reserves of
14 natural gas within the Title Areas, prior to the date that is 25 years
15 after the Domgas Project Operation Date progressively and
16 continuously make available for sale into the Western Australian
17 domestic gas market a quantity of Domgas (produced as part of the
18 Domgas Project from natural gas obtained from within the Title
19 Areas) that is equivalent to at least 1,500 petajoules of natural gas.

20 (2) The Joint Venturers shall no later than 31 March 2016 commence to
21 market Domgas (to be produced as part of the Domgas Project from
22 natural gas obtained from within the Title Areas) on an ongoing basis
23 for sale into the Western Australian domestic gas market and
24 Petrochemical feed stocks for sale as contemplated by clause 28.

25 (3) In the event liquefied natural gas for export is being produced, or is to
26 be produced, from natural gas obtained from within the Title Areas,
27 the Joint Venturers shall be obliged to market and make available for
28 sale into the Western Australian domestic gas market a quantity of
29 Domgas (produced from natural gas obtained from within the Title
30 Areas) which at any time during the currency of this Agreement
31 (including as extended from time to time) is equal to the equivalent of
32 at least the Relevant Percentage of the aggregate energy value of
33 liquefied natural gas which at that point in time has been produced for
34 export from natural gas obtained from within the Title Areas.

- 1 The parties acknowledge that for the purpose of this subclause the
2 energy value of:
- 3 (a) Domgas (produced after the Commencement Date from
4 natural gas obtained from within the Title Areas) sold by any
5 one or more of the Joint Venturers into the Western
6 Australian domestic gas market; and
- 7 (b) Petrochemical feed stocks produced and sold by any one or
8 more of the Joint Venturers in compliance with clause 28,
- 9 shall be counted towards the Joint Venturers' Domgas Commitment as
10 set out in this subclause.
- 11 For the purpose of this subclause:
- 12 **Domestic Gas Reservation Policy** means the State's policy on
13 securing domestic gas supplies as published in August 2012 in the
14 Strategic Energy Initiative: *Energy 2031*, as revised or replaced from
15 time to time including legislatively;
- 16 **energy value** means in relation to a quantity of petroleum product the
17 thermal energy equivalent of that quantity in joules calculated in
18 accordance with good industry practice;
- 19 **Relevant Percentage** means 15% or such greater or lesser percentage
20 as may be specified in, or applying for the purposes of, the Domestic
21 Gas Reservation Policy at the Relevant Time; and
- 22 **Relevant Time** means:
- 23 (a) the date on which the Minister first gives consent pursuant to
24 clause 19 for the commercialisation of natural gas obtained
25 from within the Title Areas as liquefied natural gas for
26 export; or
- 27 (b) the date on which agreement between the Minister and the
28 Joint Venturers is first reached pursuant to clause 20 on all
29 matters required by that clause to be agreed between them,
- 30 whichever occurs first.
- 31 (4) The parties acknowledge that it is their common expectation that the
32 Joint Venturers will expand their Domgas Project in accordance with

- 1 this Agreement so as to allow them to supply additional Domgas as
2 contemplated by subclause (3).
- 3 (5) As part of their Domgas Commitment the Joint Venturers agree:
- 4 (a) to reserve or procure the reservation from time to time of
5 natural gas within the Title Areas sufficient for the sustained
6 operation of the Domgas Project in accordance with approved
7 proposals and otherwise for them to meet their Domgas
8 Commitment generally; and
- 9 (b) to discharge their abovementioned ongoing marketing
10 obligations in good faith, actively and diligently (exercising
11 the degree of skill, prudence and foresight which would
12 reasonably be exercised by a skilled and experienced person
13 engaged in the same type of undertaking) including assessing
14 through activities such as market research and discussions
15 with potential buyers demand for such Domgas and
16 Petrochemical feed stocks; and
- 17 (c) to provide the Minister at least every 12 months (unless the
18 Minister requests otherwise) after 31 March 2016 with a
19 report as to the performance of their Domgas Commitment.
- 20 (6) The Minister may at any time appoint at the cost of the Joint
21 Venturers (subject to an agreed budget) an agreed person who is
22 independent of the parties and does not have any conflict of interest
23 with other companies involved in the Western Australian domestic
24 gas industry to advise the Minister of the extent to which the Joint
25 Venturers have actively and diligently undertaken ongoing marketing
26 in accordance with this clause. The Joint Venturers will provide on a
27 confidential basis to such person, information on their marketing
28 activities including indicative prices, quantities and qualities of
29 Domgas and Petrochemical feed stocks offered for sale.
- 30 (7) The provisions of clause 36 shall not apply to this clause.
- 31 (8) Subject to clause 19 and the provisions of this Agreement relating or
32 otherwise relevant to the submission and approval of proposals,
33 nothing in this Agreement is to be construed as preventing or
34 restricting the Joint Venturers from commercialising, by the
35 production of Domgas as part of the Domgas Project, more natural

1 gas from within the Title Areas than is required to be reserved for that
2 purpose pursuant to subclause (5)(a).

3 **9. Joint Venturers' continuing exploration obligation**

4 (1) The Joint Venturers shall notwithstanding the submission and
5 approval of proposals for the establishment and operation of the
6 Domgas Project continue to actively explore the Title Areas for
7 natural gas in accordance with the Petroleum Act (as modified by this
8 Agreement) with a view to commercialising such natural gas as
9 Domgas and, if the Joint Venturers so wish, liquefied natural gas for
10 export.

11 (2) The Joint Venturers shall keep the State fully informed in writing at 6
12 monthly intervals from the date of approval or deemed approval of all
13 of their proposals submitted under clause 11(1) as to the progress and
14 results of the exploration undertaken by them under subclause (1) and
15 supply to the Minister such information in relation thereto as the
16 Minister may request from time to time.

17 (3) The Joint Venturers shall co-operate with the State and consult with
18 the representatives or officers of the State regarding matters referred
19 to in subclauses (1) and (2).

20 **10. Domgas Project Pipeline Corridor**

21 (1) During their investigations, appraisals and studies required under
22 clause 5 (but not earlier than 31 December 2014) the Joint Venturers
23 shall consult with the Minister to seek the agreement of the Minister
24 (after the Minister consults the Pipelines Act Minister and (if
25 relevant) the DBNGP Land Access Minister and the Commissioner of
26 Main Roads) as to:

27 (a) the diameter of the Domgas Project Pipeline having regard to
28 (but not limited to) the parties' aspirations as set out in
29 clause 8(1), proven reserves of natural gas within the Title
30 Areas and information provided by the Joint Venturers
31 pursuant to clause 5; and

32 (b) where the Domgas Project Pipeline will begin and end; and

33 (c) the route for the Domgas Project Pipeline and associated
34 access roads to be within the Domgas Project Pipeline
35 Corridor; and

1 (d) the land required to be included in the Domgas Project
2 Pipeline Easement for that route as well as for associated
3 infrastructure and works and areas from which stone, sand,
4 clay and gravel may be taken.

5 In seeking such agreement on the matters referred to in
6 paragraphs (b), (c) and (d), regard shall be had to achieving a balance
7 between engineering matters including costs, the nature and use of
8 any lands concerned and interests therein and the costs of acquiring
9 the land (all of which shall be borne by the Joint Venturers). The
10 parties acknowledge that the width of the Domgas Project Pipeline
11 Corridor may need to vary along its route to accommodate the
12 Domgas Project Pipeline, access roads and associated infrastructure
13 and works and areas from which stone, sand, clay and gravel may be
14 taken.

15 (2) The Minister and the Joint Venturers may from time to time before
16 the submission of proposals vary their agreement pursuant to
17 subclause (1).

18 (3) The Joint Venturers acknowledge that they shall be responsible for
19 obtaining in a form and substance acceptable to the Minister all
20 unconditional and irrevocable consents of each person whose consent
21 the Land Act Minister (acting with the concurrence of the Minister)
22 requires for:

23 (a) the grant of the Domgas Project Pipeline Easement; and

24 (b) the inclusion of additional land in the Domgas Project
25 Pipeline Easement as referred to in clause 15(8).

26 (4) The provisions of clause 42 shall not apply to subclauses (1) or (2).

27 (5) An application under the Pipelines Act for the same purpose (or in the
28 Minister's opinion substantially the same purpose) as the Domgas
29 Project Pipeline may only be made by the Joint Venturers after
30 agreement has been reached by them with the Minister in accordance
31 with subclause (1).

32 (6) The Joint Venturers acknowledge that they shall be responsible for
33 applying (consistent with the matters agreed by them with the
34 Minister pursuant to clause 10) under the Pipelines Act for the grant
35 to them of the Domgas Project Pipeline Licence.

- 1 **11. Joint Venturers to submit proposals for Domgas Project**
- 2 (1) Subject to the Environmental Protection Act and the other provisions
- 3 of this Agreement, the Joint Venturers shall submit to the Minister by
- 4 30 June 2016 to the fullest extent reasonably practicable their detailed
- 5 proposals (including plans where practicable and specifications where
- 6 reasonably required by the Minister and any other details normally
- 7 required by a local government in whose areas any works are to be
- 8 situated) with respect to undertaking of the Domgas Project, which
- 9 proposals shall include the location, area, layout, design, materials
- 10 and time program for the commencement and completion of
- 11 construction or the provision (as the case may be) of each of the
- 12 following matters namely:
- 13 (a) the Domgas Project Treatment Plant at the commencement of
- 14 the Domgas Project Pipeline and other Domgas Project
- 15 Treatment Plants (if any);
- 16 (b) the Domgas Project Pipeline within the Domgas Project
- 17 Pipeline Corridor;
- 18 (c) the pipeline connections to connect the Domgas Project
- 19 Pipeline to each Domgas Project Treatment Plant to be
- 20 constructed and to the domestic gas network in the said State;
- 21 (d) associated infrastructure and works to be within the Domgas
- 22 Project Pipeline Corridor;
- 23 (e) temporary works in relation to the construction and testing of
- 24 any Domgas Project Treatment Plant and the Domgas Project
- 25 Pipeline;
- 26 (f) accommodation for the Joint Venturers' construction
- 27 workforce in the vicinity of the Domgas Project Pipeline
- 28 Corridor;
- 29 (g) water supply;
- 30 (h) electricity supplies;
- 31 (i) telecommunications;
- 32 (j) construction and permanent road access including within the
- 33 Domgas Project Pipeline Corridor;

- 1 (k) any other works, services or facilities required by the Joint
2 Venturers; and
- 3 (l) leases, licences or easements under the Land Act or DBP Act
4 section 41(2)(b) approval or DBP Act section 34 access right
5 required by the Joint Venturers from the State.
- 6 (2) The Joint Venturers may only submit proposals under subclause (1)
7 if:
- 8 (a) a plan as referred to in clause 6 has been approved by the
9 Minister; and
- 10 (b) the Minister and the Joint Venturers have reached agreement
11 pursuant to clause 10 on all matters required to be agreed
12 between them by that clause; and
- 13 (c) the Joint Venturers have applied under the Pipelines Act for
14 the grant to them of the Domgas Project Pipeline Licence and
15 such application is current.
- 16 (3) Proposals pursuant to subclause (1):
- 17 (a) must specify the matters agreed between the Minister and the
18 Joint Venturers pursuant to clause 10 and must not be
19 contrary to or inconsistent with such agreed matters;
- 20 (b) must specify the capacity (expressed in terajoules per day) of
21 the Domgas Project Pipeline proposed to be constructed; and
- 22 (c) must specify the capacity of each Domgas Project Treatment
23 Plant proposed to be constructed; and
- 24 (d) must specify the term of the Domgas Project; and
- 25 (e) must provide for the construction of the Domgas Project
26 Pipeline to be commenced within 12 calendar months after
27 approval of all of the Joint Venturers' proposals or grant of
28 the Domgas Project Pipeline Licence (whichever is the later)
29 and completed, and first transmission of natural gas to
30 commence, within 2 years thereafter; and
- 31 (f) must provide for the construction of all other proposed
32 facilities, infrastructure and works to commence not later
33 than 12 months after the approval of all of the Joint

1 Venturers' proposals and to be completed and operational
2 within 3 years thereafter.

3 The parties also acknowledge that proposals pursuant to subclause (1)
4 shall contemplate the construction, operation and maintenance of the
5 Domgas Project Pipeline, access roads and associated infrastructure
6 and works within the Domgas Project Pipeline Corridor subject to and
7 in accordance with the safety cases and such other plans and
8 requirements from time to time of the Pipelines Act and regulations
9 under the Pipelines Act.

10 (4) Each of the proposals submitted pursuant to subclause (1) may with
11 the consent of the Minister and that of any other parties concerned
12 instead of providing for the construction of new facilities or
13 equipment or the provision of new services of the kind therein
14 mentioned provide for the use by the Joint Venturers of any existing
15 facilities equipment or services of such kind (other than the pipe or
16 system of pipes, being part of the LNG Project Pipeline) belonging to
17 the Joint Venturers or, upon terms and conditions agreed between the
18 Joint Venturers and the other parties of any other existing facilities
19 equipment or services of such kind.

20 (5) The Joint Venturers may with the consent of the Minister propose, as
21 part of their proposals under this clause or under clause 13 the
22 construction, establishment, provision, enlargement or extension as
23 the case may be as part of the Domgas Project of facilities, equipment
24 or services (other than the pipe or system of pipes, being part of the
25 Domgas Project Pipeline) for use as part of the LNG Project (whether
26 current or proposed).

27 (6) Each of the proposals pursuant to subclause (1) may with the approval
28 of the Minister, or must if so required by the Minister, be submitted
29 separately and in any order as to the matter or matters mentioned in
30 one or more of paragraphs (a) to (l) of subclause (1), and until all of
31 its proposals under this clause have been approved the Joint Venturers
32 may withdraw and may resubmit any proposal but the withdrawal of
33 any proposal shall not affect the obligations of the Joint Venturers to
34 submit a proposal under this clause in respect of the subject matter of
35 the withdrawn proposal.

36 (7) The Joint Venturers shall, whenever any of the following matters
37 referred to in this subclause are proposed by the Joint Venturers

- 1 (whether before or during the submission of proposals under this
2 clause), submit to the Minister details of any services (including any
3 elements of the project investigations, design and management) and
4 any works, materials, plant, equipment and supplies that they propose
5 to consider obtaining from or having carried out or permitting to be
6 obtained from or carried out outside Australia, together with their
7 reasons therefor and shall, if required by the Minister consult with the
8 Minister with respect thereto.
- 9 (8) At the time when the Joint Venturers submit the last of the said
10 proposals pursuant to this clause, they shall:
- 11 (a) furnish to the Minister's reasonable satisfaction evidence:
- 12 (i) that the Joint Venturers are financially capable of
13 undertaking the operations to which the said
14 proposals refer; and
- 15 (ii) that the Joint Venturers are ready to embark upon and
16 proceed to carry out the operations referred to in the
17 said proposals including with respect to connecting
18 the Domgas Project Pipeline to the domestic gas
19 pipeline network; and
- 20 (iii) that the Pipelines Act Minister is ready to, upon the
21 Minister's approval of the said proposals, grant the
22 Domgas Project Pipeline Licence; and
- 23 (iv) that the Pipelines Act Minister is ready to, upon the
24 Minister's approval of the said proposals, grant all
25 consents required under the Pipelines Act or
26 regulations made thereunder for the commencement
27 of pipeline construction; and
- 28 (v) the DBNGP Land Access Minister is ready to, upon
29 the Minister's approval of the said proposals, grant
30 any DBP Act section 41(2)(b) approval and DBP Act
31 section 34 access right required by the Joint
32 Venturers; and
- 33 (vi) that the Joint Venturers hold, or the readiness of
34 relevant authorities and agencies to, upon the
35 Minister's approval of their proposals, grant

- 1 (2) The Minister shall within 2 months after the later of:
- 2 (a) receipt of proposals pursuant to clause 11(1);
- 3 (b) where the proposals are to be assessed under Part IV of the
- 4 Environmental Protection Act, service on the Minister of an
- 5 authority under section 45(7) of the Environmental Protection
- 6 Act;
- 7 (c) where a proposal will or may require the State to do any act
- 8 which affects any native title rights and interests, completion
- 9 of all processes required by laws relating to native title to be
- 10 undertaken by the State before that act may be done by the
- 11 State,
- 12 give notice to the Joint Venturers of his decision in respect to the
- 13 proposals.
- 14 (3) If the decision of the Minister is as mentioned in either of
- 15 paragraphs (b) or (c) of subclause (1) the Minister shall afford the
- 16 Joint Venturers full opportunity to consult with him and should they
- 17 so desire to submit new or revised proposals either generally or in
- 18 respect to some particular matter.
- 19 (4) If the decision of the Minister is as mentioned in either of
- 20 paragraphs (b) or (c) of subclause (1) and the Joint Venturers consider
- 21 that the decision is unreasonable the Joint Venturers within 2 months
- 22 after receipt of the notice mentioned in subclause (2) may elect to
- 23 refer to arbitration in the manner hereinafter provided the question of
- 24 the reasonableness of the decision provided that any requirement of
- 25 the Minister pursuant to the proviso to subclause (1) shall not be
- 26 referable to arbitration hereunder.
- 27 (5) An award made on an arbitration pursuant to subclause (4) shall have
- 28 force and effect as follows:
- 29 (a) if by the award the dispute is decided against the Joint
- 30 Venturers then unless the Joint Venturers within 3 months
- 31 after delivery of the award give notice to the Minister of their
- 32 acceptance of the award this Agreement shall on the
- 33 expiration of that period of 3 months cease and determine; or
- 34 (b) if by the award the dispute is decided in favour of the Joint
- 35 Venturers the decision shall take effect as a notice by the

- 1 Minister that the Minister is so satisfied with and approves
2 the matter or matters the subject of the arbitration.
- 3 (6) Notwithstanding any provision of this Agreement or that the plan
4 required to be approved pursuant to clause 6 has not been approved or
5 that the agreement required to be reached between the Minister and
6 the Joint Venturers pursuant to clause 10 has not been so reached or
7 that under this clause any proposals of the Joint Venturers are
8 approved by the Minister or determined by arbitration award, unless
9 each and every matter required pursuant to clause 11 is so approved or
10 determined by 30 June 2018, the Minister may give the Joint
11 Venturers 6 months notice of intention to determine this Agreement
12 and unless before the expiration of the said 6 months period all the
13 detailed proposals and matters are so approved or determined this
14 Agreement shall on the expiration of that period cease and determine
15 subject to the provisions of clause 39.
- 16 (7) Subject to and in accordance with the Environmental Protection Act
17 and any approvals and licences required under that Act the Joint
18 Venturers shall implement the approved proposals in accordance with
19 the terms thereof.
- 20 (8) Notwithstanding clause 35 the Minister may during the
21 implementation of approved proposals approve variations to those
22 proposals.
- 23 **13. Expansion of Domgas Project**
- 24 (1) If the Joint Venturers at any time during the currency of this
25 Agreement desire to:
- 26 (a) extend or enlarge the Domgas Project Pipeline or a Domgas
27 Project Treatment Plant or increase the capacity of that
28 pipeline or treatment plant beyond that specified in the
29 approved proposals; or
- 30 (b) connect an existing or proposed pipeline to the Domgas
31 Project Pipeline; or
- 32 (c) otherwise to significantly modify, expand or otherwise vary
33 their activities that are the subject of this Agreement and that
34 may be carried on by them pursuant to this Agreement as part

- 1 of the Domgas Project beyond those activities specified in the
2 then approved proposals,
- 3 they shall give notice of such desire to the Minister and furnish to the
4 Minister with that notice an outline of their proposals in respect
5 thereto (including such matters mentioned in clauses 10 and 11(1) as
6 are relevant or as the Minister otherwise requires).
- 7 (2) The Minister shall within one month after receiving a notice under
8 subclause (1) advise the Joint Venturers whether or not he approves
9 in-principle the proposed extension, enlargement, increase,
10 connection or other modification, expansion or variation. An
11 in-principle approval by the Minister under this subclause may be
12 given subject to conditions including a condition requiring variations
13 or additions to this Agreement provided that any such condition shall
14 not without the consent of the Joint Venturers require variations of:
- 15 (a) the term of any Petroleum Titles or rentals or royalties
16 payable thereunder; or
- 17 (b) the rates or method of calculating royalty on petroleum
18 produced from the Petroleum Titles.
- 19 The Minister shall afford the Joint Venturers full opportunity to
20 consult with the Minister in respect of any decision of the Minister
21 under this subclause.
- 22 (3) If the Minister gives in-principle approval under subclause (2) the
23 Joint Venturers may but not otherwise submit detailed proposals in
24 respect thereof provided that the provisions of clause 5 (other than
25 subclause (1)(a) and (1)(b)(i)) and (if the proposals are to include an
26 extension or enlargement of the Domgas Project Pipeline) clause 10
27 shall mutatis mutandis apply prior to submission of detailed proposals
28 in respect thereof.
- 29 (4) Subject to the Environmental Protection Act and the provisions of this
30 Agreement the Joint Venturers shall submit to the Minister within a
31 reasonable timeframe (as determined by the Minister) after the giving
32 of the Minister's in-principle approval, detailed proposals in respect
33 thereof in accordance with any conditions of that approval otherwise
34 that in-principle approval shall lapse.

1 (5) The provisions of clause 11 (other than subclause (3)(d), with the
2 reference in subclause (8)(a)(iii) being read as a reference to the
3 Pipelines Act Minister being ready to vary the Domgas Pipeline
4 Licence to accord with the approved proposals, with the reference in
5 subclause (8)(b) being read as a reference to clause 10(3)(b) and the
6 reference in subclause (8)(c) being read as a reference to clause 7(3)
7 as applying pursuant to clause 7(6)) and of clause 12 (other than
8 subclauses (5)(a) and (6)) shall mutatis mutandis apply to detailed
9 proposals submitted pursuant to this clause. The Joint Venturers may
10 withdraw such proposals at any time before approval thereof or,
11 where any decision of the Minister in respect thereof is referred to
12 arbitration, within 3 months after the award by notice to the Minister
13 that it shall not be proceeding with the same. In that event the
14 Minister's in-principle approval shall lapse.

15 (6) Subject to and in accordance with the Environmental Protection Act
16 and any approvals or licences required under that Act, the Joint
17 Venturers shall implement approved proposals pursuant to this clause
18 in accordance with the terms thereof.

19 **14. Petroleum Titles**

20 (1) For the purposes of this Agreement and without limiting the operation
21 of other subclauses, the application of the Petroleum Act and the
22 regulations made thereunder in relation to Petroleum Titles is, and the
23 rights and obligations of the holders from time to time of Petroleum
24 Titles are, specifically modified during the continuance of this
25 Agreement as follows:

26 (a) section 41 of the Petroleum Act shall not apply to an
27 application made during the Suspension Period under
28 section 40 of the Petroleum Act for the renewal of a
29 petroleum exploration permit; and

30 (b) an application made under section 40 of the Petroleum Act
31 during the Suspension Period for the renewal of a petroleum
32 exploration permit must be in respect of all of the blocks in
33 respect of which the permit is then in force unless the
34 Petroleum Act Minister (acting with the concurrence of the
35 Minister) otherwise consents to the application being made in
36 respect of a lesser number of blocks;

- 1 (c) an application made under section 40 of the Petroleum Act
2 during the Suspension Period for the renewal of a petroleum
3 exploration permit may not be made earlier than 6 calendar
4 months before the date of expiration of the permit; and
- 5 (d) in relation to section 97:
- 6 (i) section 97(3) shall not apply:
- 7 (A) during the Suspension Period in respect of a
8 petroleum exploration permit; and
- 9 (B) to a petroleum exploration permit that is
10 renewed during the Suspension Period in
11 respect of that renewed term; and
- 12 (ii) without restricting a permittee's right to make
13 applications in respect of a variation, suspension or
14 exemption under section 97(1)(g), the permittee may,
15 at any time during the first 9 months of the final year
16 of the term of a petroleum exploration permit that has
17 been renewed during the Suspension Period, make an
18 application pursuant to section 97(1)(g) for:
- 19 (A) a variation or suspension of the minimum
20 work commitments relating to that renewed
21 term of the petroleum exploration permit;
22 or
- 23 (B) an exemption from compliance with the
24 minimum work commitments relating to
25 that renewed term of the petroleum
26 exploration permit,
- 27 notwithstanding that at the time of making such
28 application the permittee has not complied with or is
29 unlikely to be able to comply with the relevant
30 minimum work commitments. In such case the
31 Petroleum Act Minister is (in addition to his or her
32 powers under section 97(1)) empowered, if he or she
33 (after consulting the Minister) considers it appropriate
34 in all the circumstances, to vary or suspend the
35 commitments or exempt the permittee from the

page 38

- 1 (4) The Joint Venturers shall be responsible for obtaining the grant to
2 them (or such of them as are the holders of the then existing relevant
3 Petroleum Title) under the Petroleum Act of any petroleum
4 production licences or retention leases (which upon grant will be
5 Petroleum Titles) including if required for the purposes of the
6 Domgas Project or the LNG Project, of any extensions or renewals of
7 petroleum exploration permits or petroleum retention leases and
8 extensions of any petroleum drilling reservations and the grant of
9 such petroleum production licences or retention leases, extensions or
10 renewals of petroleum exploration permits or petroleum retention
11 leases or extensions of petroleum drilling reservations may not be
12 sought as part of proposals submitted by the Joint Venturers under
13 this Agreement.
- 14 (5) The Joint Venturers shall lodge with the Petroleum Act Department in
15 respect of all Petroleum Titles
- 16 (a) such periodical reports and returns as may be required by, or
17 prescribed, by the Petroleum Act or regulations made
18 thereunder in respect of the Petroleum Titles (including any
19 reports and returns required by administrative guidelines that
20 by direction are applicable to the Petroleum Titles); and
- 21 (b) reports on drilling operations and drill holes where the main
22 purpose of the drilling was to discover or prove up natural
23 gas reserves within the Title Areas in compliance with the
24 Joint Venturers' obligations under clause 5; and
- 25 (c) if requested by the Minister but not more frequently than
26 annually, a report for consideration by the Minister which is a
27 summary of the status of and prospects for gas discovery and
28 reserves together with a list of any activities carried out
29 during the year or since the period of the last report
30 (whichever is greater) and, if requested by the Minister will
31 provide further details and results of those activities in
32 accordance with guidelines on reporting as specified in the
33 Petroleum Act or applied to the Petroleum Titles from time to
34 time,
- 35 and the Joint Venturers acknowledge that any notifications and
36 particulars provided to the Petroleum Act Department under
37 section 44(1) of the Petroleum Act in relation to the land the subject

1 of the Petroleum Titles may be provided by that department to the
2 Minister.

3 **15. Pipeline Licences and Project Titles**

4 (1) Not later than 3 months after all of the Joint Venturers' proposals
5 submitted pursuant to clause 11(1) have been approved or deemed to
6 be approved the State shall in accordance with the approved proposals
7 cause to be granted to the Joint Venturers:

8 (a) under and subject to the Pipelines Act (as modified by this
9 Agreement), a licence for the Joint Venturers to construct,
10 operate and maintain the Domgas Project Pipeline on such
11 terms and conditions as the Pipelines Act Minister may,
12 consistent with this Agreement and approved proposals,
13 consider reasonable; and

14 (b) under and subject to the Pipelines Act (as modified by this
15 Agreement), an easement for the Joint Venturers to construct,
16 operate, inspect, maintain and repair within the Domgas
17 Project Pipeline Corridor the Domgas Project Pipeline, access
18 roads and associated infrastructure and works within that
19 corridor on such terms and conditions as the Land Act
20 Minister may consistent with this Agreement and approved
21 proposals, consider reasonable; and

22 (c) under and subject to the DBP Act, any section 41(2)(b)
23 approval and section 34 access right to be granted pursuant to
24 such approved proposals in respect of the connection of the
25 Domgas Project Pipeline to the domestic gas pipeline
26 network on such terms and conditions as the DBNGP Land
27 Access Minister may, consistent with this Agreement and
28 approved proposals, consider reasonable.

29 (2) Not later than 3 months after all of the Joint Venturers proposals'
30 submitted pursuant to clause 21(1) have been approved or deemed to
31 be approved the State shall in accordance with the approved proposals
32 cause to be granted to the Joint Venturers:

33 (a) under and subject to the Pipelines Act (as modified by this
34 Agreement), a licence for the Joint Venturers to construct,
35 operate and maintain the LNG Project Pipeline on such terms
36 and conditions as the Pipelines Act Minister may, consistent

- 1 with this Agreement and approved proposals, consider
2 reasonable; and
- 3 (b) under and subject to the Pipelines Act (as modified by this
4 Agreement), an easement for the Joint Venturers to construct,
5 operate, inspect, maintain and repair within the LNG Project
6 Pipeline Corridor the LNG Project Pipeline, access roads and
7 associated infrastructure and works within such corridor on
8 such terms and conditions as the Land Act Minister may
9 consistent with this Agreement and approved proposals,
10 consider reasonable; and
- 11 (c) under and subject to the DBP Act, any section 41(2)(b)
12 approval and section 34 access right to be granted pursuant to
13 such approved proposals in respect of the connection of the
14 LNG Project Pipeline to the domestic gas pipeline network (if
15 such connection has been approved as part of the approved
16 proposals for the LNG Project) on such terms and conditions
17 as the DBNGP Land Access Minister may, consistent with
18 this Agreement and approved proposals, consider reasonable.
- 19 (3) Subject to subclause (4), the State shall on application made by the
20 Joint Venturers to the Minister in such manner as the Minister may
21 determine, no later than 3 months after approval of the Joint
22 Venturers' approved proposals for the grant of such titles, in
23 accordance with the Joint Venturers' approved proposals cause to be
24 granted to the Joint Venturers for such periods and on such terms and
25 conditions including rentals and renewal rights as the Minister (after
26 consulting the Land Act Minister) may, consistent with this
27 Agreement and the approved proposals, consider reasonable having
28 regard to the requirements of the Joint Venturers leases, licences and
29 other easements under, and except as provided in this Agreement,
30 subject to the Land Act for all or any of the Joint Venturers'
31 operations under this Agreement.
- 32 (4) A Project Title may only be determined:
- 33 (a) by the expiration of its term (including as extended from time
34 to time); or
- 35 (b) by the Joint Venturers surrendering the title with the consent
36 of the Minister (after consulting the Land Act Minister or the
37 DBNGP Land Access Minister as the case requires); or

- 1 (c) under, pursuant to or as otherwise provided in this
2 Agreement.
- 3 (5) A Project Title may not be forfeited or otherwise determined except in
4 accordance with this Agreement.
- 5 (6) If additional proposals are approved or deemed approved in
6 accordance with:
- 7 (a) clause 13 in relation to the Domgas Project Pipeline; or
8 (b) clause 23 in relation to the LNG Project Pipeline,
- 9 then the State shall cause the Pipelines Act Minister (if necessary) to,
10 under and subject to the Pipelines Act (as modified by this
11 Agreement), vary the terms and conditions of the applicable Pipeline
12 Licence (including if required as to the area of the licence) as the
13 Pipelines Act Minister may, consistent with this Agreement and
14 approved proposals, consider reasonable.
- 15 (7) The Joint Venturers shall, if the Minister so requires, within 6 months
16 after the Domgas Project Operation Date or such longer period
17 allowed by the Minister surrender in accordance with the provisions
18 of the Pipelines Act the area of the Domgas Project Pipeline Easement
19 down to 30 metres in width or such other width (generally or in
20 relation to any part of such easement) approved or required by the
21 Minister as the case may be (after consulting the Joint Venturers, the
22 Land Act Minister, the Pipelines Act Minister and (if relevant) the
23 Commissioner of Main Roads) which allows for the safe operation of
24 the Domgas Project Pipeline then constructed or approved for
25 construction under approved proposals.
- 26 (8) If additional proposals are approved in accordance with clause 13 for
27 the extension or enlargement of the Domgas Project Pipeline outside
28 the then Domgas Project Pipeline Corridor, the Land Act Minister
29 shall include the area of land within which such construction is to
30 occur in the Domgas Project Pipeline Easement by endorsement and
31 subclause (7) applies mutatis mutandis to such additional area of land.
32 The area of land may be included notwithstanding that the survey of
33 the land has not been completed but subject to correction to accord
34 with the survey when completed. Such survey shall be undertaken at
35 the Joint Venturers' expense.

- 1 (9) The Joint Venturers shall, if the Minister so requires, within 6 months
2 after the LNG Project Operation Date or such longer period allowed
3 by the Minister surrender in accordance with the provisions of the
4 Pipelines Act the area of the LNG Project Pipeline Easement down to
5 30 metres in width or such other width (generally or in relation to any
6 part of such easement) approved or required by the Minister as the
7 case may be (after consulting the Joint Venturers, the Land Act
8 Minister, the Pipelines Act Minister and (if relevant) the
9 Commissioner of Main Roads) which allows for the safe operation of
10 the LNG Project Pipeline then constructed or approved for
11 construction under approved proposals.
- 12 (10) If additional proposals are approved in accordance with clause 23 for
13 the extension or enlargement of the LNG Project Pipeline outside the
14 then LNG Project Pipeline Corridor, the Land Act Minister shall
15 include the area of land within which such construction is to occur in
16 the LNG Project Pipeline Easement by endorsement and subclause (9)
17 applies mutatis mutandis to such additional area. The area of land
18 may be included notwithstanding that the survey of the land has not
19 been completed but subject to correction to accord with the survey
20 when completed. Such survey shall be undertaken at the Joint
21 Venturers' expense.
- 22 (11) For the purposes of this Agreement, in respect of the Project
23 Pipelines, the Pipeline Licences and the Pipeline Easements, the
24 Pipelines Act and the regulations made thereunder are specifically
25 modified during the continuance of this Agreement as follows:
- 26 (a) by deleting paragraph (c) in the definition of "pipeline" under
27 section 4;
- 28 (b) by substituting for section 10 the following section:
- 29 "The Minister shall, on request made pursuant to
30 clause 15(1)(a) or clause 15(2)(a) (as the case may be) of the
31 agreement made on or about 6 November 2012 between The
32 Honourable Colin James Barnett, Premier of the State of
33 Western Australia acting for and on behalf of the said State
34 and its instrumentalities from time to time, Buru Energy
35 Limited ACN 130 651 437, Diamond Resources (Fitzroy)
36 Pty Ltd ACN 145 113 177, Diamond Resources (Canning)
37 Pty Ltd ACN 145 113 186 and Mitsubishi Corporation, as

- 1 varied from time to time, grant a licence under this Act and
2 in accordance with the provisions of that agreement and
3 cause to be published in the *Government Gazette* a notice
4 that the licence has been granted."; and
- 5 (c) in section 15 by:
- 6 (i) deleting the words "other than a variation with
7 respect to the licence area" in subsection (1); and
- 8 (ii) substituting for subsection (5) the following
9 subsection:
- 10 "After considering particulars of any matters
11 submitted to him under subsection (4), the Minister
12 may:
- 13 (a) in accordance with the agreement made
14 on or about 6 November 2012 between
15 The Honourable Colin James Barnett,
16 Premier of the State of Western Australia
17 acting for and on behalf of the said State
18 and its instrumentalities from time to
19 time, Buru Energy Limited ACN
20 130 651 437, Diamond Resources
21 (Fitzroy) Pty Ltd ACN 145 113 177,
22 Diamond Resources (Canning) Pty Ltd
23 ACN 145 113 186 and Mitsubishi
24 Corporation, as varied from time to time,
25 vary the licence (including with respect
26 to the licence area); or
- 27 (b) refuse to vary the licence."; and
- 28 (d) by inserting a new section 16A as follows:
- 29 "Without limiting the powers of the Minister under
30 section 15, the Minister may vary a licence to the extent he or
31 she thinks reasonable for the purposes of:
- 32 (a) satisfying a condition relevant to the licence that is
33 specified in a consent given under clause 34 of the
34 agreement made on or about 6 November 2012
35 between The Honourable Colin James Barnett,

- 1 Premier of the State of Western Australia acting
2 for and on behalf of the said State and its
3 instrumentalities from time to time, Buru Energy
4 Limited ACN 130 651 437, Diamond Resources
5 (Fitzroy) Pty Ltd ACN 145 113 177, Diamond
6 Resources (Canning) Pty Ltd ACN 145 113 186
7 and Mitsubishi Corporation, as varied from time to
8 time;
- 9 (b) giving effect to any variations determined in
10 accordance with clause 39(6)(c)(ii) of the
11 agreement referred to in paragraph (a); and
- 12 (c) ensuring that in the event the area of an easement
13 granted pursuant to the agreement referred to in
14 paragraph (a) is reduced by surrender, the licence
15 area coincides with the reduced area."; and
- 16 (e) by inserting at the end of section 16 the following paragraphs:
17 "The Minister for Lands shall:
- 18 (a) on request made pursuant to clause 15(1)(b) or
19 clause 15(2)(b) (as the case may be) of the
20 agreement made on or about 6 November 2012
21 between The Honourable Colin James Barnett,
22 Premier of the State of Western Australia acting
23 for and on behalf of the said State and its
24 instrumentalities from time to time, Buru Energy
25 Limited ACN 130 651 437, Diamond Resources
26 (Fitzroy) Pty Ltd ACN 145 113 177, Diamond
27 Resources (Canning) Pty Ltd ACN 145 113 186
28 and Mitsubishi Corporation, as varied from time to
29 time, grant an easement under this Act and in
30 accordance with the provisions of the agreement;
31 and
- 32 (b) if additional proposals are approved under
33 clause 13 or clause 23 (as the case may be) of that
34 agreement which proposals contemplate the
35 extension or enlargement of an easement granted
36 pursuant to the clauses referred to in paragraph (a)
37 above, include the additional area of land within

1 the applicable easement by endorsement in
2 accordance with the provisions of the agreement.

3 For the avoidance of doubt, an easement granted pursuant to
4 the agreement may:

(i) in respect of its initial area or in respect of any additional area included within the easement be granted or varied (as the case may be) so as to include terms and conditions providing for the surrender of land contained within the easement as contemplated by the provisions of the agreement; and

(ii) include the right, subject to compliance with the *Environmental Protection Act 1986* and in accordance with the agreement, for the grantee to take stone, sand, clay and gravel from the area of the easement for the purpose of constructing, operating and maintaining the pipeline the subject of that easement."; and

21 (f) in section 19 by:

22 (i) deleting subsections (1), (2) and (3); and

(ii) inserting at the end of subsection (4) the following paragraphs:

25 "The requirements of this subsection shall also apply
26 to:

27 (i) an extension or enlargement of the area of an
28 easement; and

29 (ii) the reduction of the area of an easement by
30 surrender.

31 The Minister for Lands is empowered,
32 notwithstanding any other Act, to prescribe by
33 administrative guidelines such additional procedural
34 requirements (including the form of any document or

1 instrument that he or she considers reasonably
2 necessary) to document, notify, record or register the
3 dealings relating to easements as contemplated by the
4 agreement made on or about 6 November 2012
5 between The Honourable Colin James Barnett,
6 Premier of the State of Western Australia acting for
7 and on behalf of the said State and its
8 instrumentalities from time to time, Buru Energy
9 Limited ACN 130 651 437, Diamond Resources
10 (Fitzroy) Pty Ltd ACN 145 113 177, Diamond
11 Resources (Canning) Pty Ltd ACN 145 113 186 and
12 Mitsubishi Corporation, as varied from time to time.";
13 and

14 (g) by deleting sections 24, 26, 27 and 28; and

15 (h) by inserting at the end of section 57(1) the following
16 sentence:

17 "For the avoidance of doubt, this subsection applies to a
18 pipeline constructed under this Act and pursuant to the
19 agreement made on or about 6 November 2012 between The
20 Honourable Colin James Barnett, Premier of the State of
21 Western Australia acting for and on behalf of the said State
22 and its instrumentalities from time to time, Buru Energy
23 Limited ACN 130 651 437, Diamond Resources (Fitzroy)
24 Pty Ltd ACN 145 113 177, Diamond Resources (Canning)
25 Pty Ltd ACN 145 113 186 and Mitsubishi Corporation, as
26 varied from time to time, and such application is subject to
27 clause 39 of that agreement."

28 **16. Construction and operation of Project Pipelines**

29 (1) Subject to and in accordance with approved proposals and the
30 Pipeline Licences and in compliance with the Pipelines Act (as
31 modified by this Agreement) and other applicable Laws, the Joint
32 Venturers shall in a proper and workmanlike manner and in
33 accordance with recognised standards for pipelines of a similar nature
34 operating under similar conditions construct the Project Pipelines,
35 access roads and associated infrastructure and works within the
36 relevant Project Titles.

- 1 (2) The Joint Venturers shall:
- 2 (a) from the date occurring 6 months before the date for
- 3 completion of construction of the Domgas Project Pipeline
- 4 specified in its time program for the commencement and
- 5 completion of construction of the Domgas Project Pipeline
- 6 submitted under clause 11(1) and approved under clause 12,
- 7 keep the Minister fully informed as to:
- 8 (i) the progress of that construction and its likely
- 9 completion; and
- 10 (ii) the likely Domgas Project Operation Date; and
- 11 (b) on the Domgas Project Operation Date, notify the Minister
- 12 that the first transport of Domgas produced as part of the
- 13 Domgas Project through the Domgas Project Pipeline (other
- 14 than for construction or commissioning purposes) and
- 15 delivery of such gas into the Western Australian domestic gas
- 16 market using the relevant connecting domestic gas pipeline
- 17 network has occurred.
- 18 (3) The Joint Venturers shall:
- 19 (a) from the date occurring 6 months before the date for
- 20 completion of construction of the LNG Project Pipeline
- 21 specified in its time program for the commencement and
- 22 completion of construction of the LNG Project Pipeline
- 23 submitted under clause 21(1) and approved under clause 22,
- 24 keep the Minister fully informed as to:
- 25 (i) the progress of that construction and its likely
- 26 completion; and
- 27 (ii) the likely LNG Project Operation Date; and
- 28 (b) on the LNG Project Operation Date, notify the Minister that
- 29 the first delivery of natural gas obtained from within the Title
- 30 Areas through the LNG Project Pipeline (other than for
- 31 construction or commissioning purposes) to the LNG
- 32 Production Facility (or into the relevant connecting third
- 33 party pipeline for delivery to the LNG Production Facility)
- 34 has occurred.

- 1 (4) The Joint Venturers shall during the continuance of this Agreement:
- 2 (a) keep the Project Pipelines and associated infrastructure and
3 works constructed under this Agreement in an operable state;
- 4 (b) ensure that the Project Pipelines and associated infrastructure
5 and works constructed under this Agreement are operated in a
6 safe and proper manner in compliance with all applicable
7 Laws from time to time; and
- 8 (c) without limiting subclause (2)(b) and clause 26, ensure that
9 the obligations imposed under the Pipelines Act (as modified
10 by this Agreement) and the Pipeline Licences are complied
11 with in connection with the Project Pipelines and associated
12 infrastructure and works constructed under this Agreement.
- 13 (5) The Joint Venturers shall provide crossings for livestock and also for
14 any roads, other railways, conveyors, pipelines, transmission lines and
15 other utilities which in respect of a proposed crossing of land the
16 subject of a Pipeline Easement or other Project Title existing at the
17 date of the grant of the relevant Pipeline Easement or other Project
18 Title or in respect of land subsequently included in such Pipeline
19 Easement or other Project Title at the date of such inclusion. In
20 addition for the purposes of livestock and infrastructure such as roads,
21 railways, conveyors, pipelines, transmission lines and other utilities
22 proposed to cross the land the subject of a Pipeline Easement or other
23 Project Title the Joint Venturers shall:
- 24 (a) if applicable, give their consent to, and otherwise facilitate,
25 the grant by the State or any agency, instrumentality or other
26 authority of the State of any lease, licence, easement or other
27 title over land the subject of the Pipeline Easement or other
28 Project Title so long as such grant does not in the Minister's
29 opinion unduly prejudice or interfere with the activities of the
30 Joint Venturers under this Agreement; and
- 31 (b) on reasonable terms and conditions allow access for the
32 construction and operation of such crossings and associated
33 infrastructure,
- 34 provided that in forming his opinion under this clause the Minister
35 must consult with the Joint Venturers.

- 1 (6) Subject to clause 34, the Joint Venturers shall at all times be the
2 holders of the Pipeline Licences and the Pipeline Easements other
3 Project Titles and (without limiting clause 41 shall at all times own
4 manage and control the use of the Project Pipelines and associated
5 infrastructure and works constructed under this Agreement.
- 6 (7) Subject to clause 34, the Joint Venturers shall not at any time without
7 the prior consent of the Minister (given after consulting the Pipelines
8 Act Minister) dismantle, sell or otherwise dispose of any part or parts
9 of the Project Pipelines and associated infrastructure and works
10 constructed under this Agreement, or permit this to occur, other than
11 for the purpose of maintenance, repair, upgrade or renewal.
- 12 (8) The Joint Venturers shall not at any time without the prior consent of
13 the Minister (given after consulting with the Pipelines Act Minister)
14 dismantle, sell or otherwise dispose of any part or parts of any
15 Domgas Project Treatment Plant and associated infrastructure and
16 works constructed under this Agreement or of any LNG Treatment
17 Plant and associated infrastructure and works constructed under this
18 Agreement, or permit this to occur, other than for the purpose of
19 maintenance, repair, upgrade or renewal.

20 **17. Roads**

- 21 (1) The Joint Venturers shall:
- 22 (a) be responsible for the cost of the construction and
23 maintenance of all private roads which will be used in their
24 activities hereunder;
- 25 (b) at their own cost erect signposts and take other steps that may
26 be reasonable in the circumstances to prevent any persons
27 and vehicles other than those engaged upon the Joint
28 Venturers' activities and their invitees and licensees from
29 using those private roads; and
- 30 (c) at any place where any private roads are constructed by the
31 Joint Venturers so as to cross any railways or public roads,
32 provide at their cost such reasonable protection and
33 signposting as may be required by the Commissioner of Main
34 Roads or the Public Transport Authority, as the case may be.

- 1 (2) The State shall maintain or cause to be maintained those public roads
2 under the control of the Commissioner of Main Roads or a local
3 authority which may be used by the Joint Venturers for the purposes
4 of this Agreement to a standard similar to comparable public roads
5 maintained by the Commissioner of Main Roads or a local authority,
6 as the case may be.
- 7 (3) In the event that for or in connection with the Joint Venturers'
8 activities hereunder the Joint Venturers or the Joint Venturers'
9 workforce uses or wishes to use a public road (whether referred to in
10 subclause (2) or otherwise) which is inadequate for the purpose, or
11 any use by the Joint Venturers or the Joint Venturers' workforce of
12 any public road results in excessive damage to or deterioration thereof
13 (other than fair wear and tear), the Joint Venturers shall pay to the
14 State or the local authority, as the case may require, the whole or an
15 equitable part of the total cost of any upgrading required or of making
16 good the damage or deterioration as may be reasonably required by
17 the Commissioner of Main Roads, having regard to the use of such
18 public road by others.
- 19 (4) Where a road constructed by the Joint Venturers for their own use is
20 subsequently required for public use, the State may, after consultation
21 with the Joint Venturers and so long as resumption thereof shall not
22 unduly prejudice or interfere with the activities of the Joint Venturers
23 under this Agreement, resume and dedicate such road as a public
24 road. Upon any such resumption the State shall pay to the Joint
25 Venturers such amount as is reasonable.
- 26 **18. Access obligations in respect of the Project Pipelines**
- 27 (1) The Joint Venturers shall comply with and observe the Laws for the
28 time being in force in the said State with respect to the provision of
29 access by persons to the Project Pipelines or either of them (including
30 use by persons of the services provided by the Project Pipelines or
31 either of them).
- 32 (2) Nothing in this Agreement shall be taken to limit the rights of the
33 State to regulate access to the Project Pipelines or either of them
34 (including use by persons of the services provided by the Project
35 Pipelines or either of them).

1 **19. Commercialisation of natural gas from the Title Areas**

2 (1) The Joint Venturers shall not after the Commencement Date, without
3 the prior consent of the Minister, sell, dispose or otherwise
4 commercialise or permit the commercialisation of natural gas
5 obtained from the Title Areas other than by means of infrastructure
6 and activities comprising the Domgas Project or the LNG Project
7 provided that:

8 (a) the Minister may not unreasonably withhold his consent to
9 the commercialisation of such natural gas as Domgas; and

10 (b) the Minister may not consent to the commercialisation of
11 such natural gas for the production of liquefied natural gas for
12 export before all proposals for the Domgas Project have been
13 submitted pursuant to clause 11 and approved or deemed to
14 be approved pursuant to clause 12 except on the basis that
15 natural gas obtained from the Title Areas is commercialised,
16 by the production of Domgas as part of the Domgas Project,
17 before such natural gas is commercialised by the production
18 of liquefied natural gas for export.

19 (2) The Joint Venturers shall provide to the Minister an outline of any
20 proposed commercialisation arrangement for which the Minister's
21 consent is required under subclause (1).

22 (3) If so required by the Minister, the Joint Venturers shall provide to the
23 Minister further particulars of the proposed commercialisation
24 arrangement.

25 (4) The Minister shall afford the Joint Venturers full opportunity to
26 consult with the Minister in respect of any decision of the Minister
27 under this clause.

28 **20. LNG Project Pipeline Corridor**

29 (1) Not earlier than 31 December 2014 and not less than 12 months
30 before they intend to submit proposals under clause 21 the Joint
31 Venturers shall consult with the Minister to seek the agreement of the
32 Minister (after the Minister consults the Pipeline Act Minister and (if
33 relevant) the DBNGP Land Access Minister and the Commissioner of
34 Main Roads) as to:

35 (a) the diameter of the LNG Project Pipeline; and

- 1 (b) where the LNG Project Pipeline will begin and end; and
- 2 (c) the route for the LNG Project Pipeline and associated access
3 roads to be within the LNG Project Pipeline Corridor; and
- 4 (d) the land required to be included in the LNG Project Pipeline
5 Easement for that route as well as for associated
6 infrastructure and works and areas from which stone, sand,
7 clay and gravel may be taken; and
- 8 (e) the Relevant LNG Precinct.
- 9 In seeking such agreement on the matters referred to in
10 paragraphs (b), (c) and (d), regard shall be had to achieving a balance
11 between engineering matters including costs, the nature and use of
12 any lands concerned and interests therein and the costs of acquiring
13 the land (all of which shall be borne by the Joint Venturers). The
14 parties acknowledge that the width of the LNG Project Pipeline
15 Corridor may need to vary along its route to accommodate the LNG
16 Project Pipeline, access roads and associated infrastructure and works
17 and areas from which stone, sand, clay and gravel may be taken.
- 18 (2) The Minister and the Joint Venturers may from time to time before
19 the submission of proposals vary their agreement pursuant to
20 subclause (1).
- 21 (3) The Joint Venturers acknowledge that they shall be responsible for
22 obtaining in a form and substance acceptable to the Minister all
23 unconditional and irrevocable consents of each person whose consent
24 the Land Act Minister (acting with the concurrence of the Minister)
25 requires for:
- 26 (a) the grant of the LNG Project Pipeline Easement; and
- 27 (b) the inclusion of additional land in the LNG Project Pipeline
28 Easement as referred to in clause 15(10).
- 29 (4) The provisions of clause 42 shall not apply to subclauses (1) or (2).
- 30 (5) An application under the Pipelines Act for the same purpose (or in the
31 Minister's opinion substantially the same purpose) as the LNG Project
32 Pipeline may only be made by the Joint Venturers after agreement has
33 been reached by them with the Minister in accordance with
34 subclause (1).

1 (6) The Joint Venturers acknowledge that they shall be responsible for
2 applying (consistent with the matters agreed by them with the
3 Minister pursuant to clause 20) under the Pipeline Act for the grant to
4 them of the LNG Project Pipeline Licence.

5 **21. Joint Venturers may submit proposals for an LNG Project**

6 (1) Subject to the Environmental Protection Act and the other provisions
7 of this Agreement, the Joint Venturers shall submit to the Minister
8 within 18 months after the date on which agreement between the
9 Minister and the Joint Venturers is reached pursuant to clause 20 on
10 all matters required to be agreed between them by that clause to the
11 fullest extent reasonably practicable their detailed proposals
12 (including plans where practicable and specifications where
13 reasonably required by the Minister and any other details normally
14 required by a local government in whose areas any works are to be
15 situated) with respect to undertaking of the LNG Project, which
16 proposals shall include the location, area, layout, design, materials
17 and time program for the commencement and completion of
18 construction or the provision (as the case may be) of each of the
19 following matters namely:

- 20 (a) LNG Project Treatment Plants (if any);
- 21 (b) the LNG Project Pipeline within the LNG Project Pipeline
22 Corridor;
- 23 (c) the pipeline connections within the LNG Project Pipeline
24 Corridor to connect the LNG Project Pipeline to any LNG
25 Project Treatment Plant and to the LNG Production Facility
26 (or relevant third party pipeline for delivery to the LNG
27 Production Facility);
- 28 (d) associated infrastructure and works to be within the LNG
29 Project Corridor;
- 30 (e) temporary works in relation to the construction and testing of
31 any LNG Project Treatment Plant and the LNG Project
32 Pipeline;
- 33 (f) accommodation for the Joint Venturers' construction
34 workforce in the vicinity of the LNG Project Pipeline
35 Corridor;

- 1 (g) water supply;
- 2 (h) electricity supplies;
- 3 (i) telecommunications;
- 4 (j) construction and permanent road access including within the
5 LNG Project Pipeline Corridor;
- 6 (k) any other works, services or facilities required by the Joint
7 Venturers; and
- 8 (l) leases, licences or easements under the Land Act or DBP Act
9 section 41(2)(b) approvals or DBP Act section 34 access
10 rights required by the Joint Venturers from the State.
- 11 (2) The Joint Venturers may only submit proposals under subclause (1)
12 if:
- 13 (a) a plan as referred to in clause 6 has been approved by the
14 Minister (if the Minister requires such a plan be prepared);
15 and
- 16 (b) the Minister and the Joint Venturers have reached agreement
17 pursuant to clause 20 on all matters required to be agreed
18 between them by that clause; and
- 19 (c) the Joint Venturers have applied under the Pipelines Act for
20 the grant to them of the LNG Project Pipeline Licence and
21 such application is current; and
- 22 (d) all proposals required by clause 11 to be submitted for the
23 Domgas Project have been submitted in accordance with that
24 clause.
- 25 (3) Proposals submitted pursuant to subclause (1):
- 26 (a) must specify the matters agreed between the Minister and the
27 Joint Venturers pursuant to clause 20 and must not be
28 contrary to or inconsistent with such agreed matters; and
- 29 (b) must specify the capacity (expressed in terajoules per day) of
30 the LNG Project Pipeline proposed to be constructed; and
- 31 (c) must specify the term of the LNG Project; and

- 1 (d) must specify the capacity of each LNG Project Treatment
2 Plant proposed to be constructed; and
- 3 (e) must provide for the construction of the LNG Project Pipeline
4 to be commenced within 12 calendar months after approval
5 of all of the Joint Venturers' proposals or grant of the LNG
6 Project Pipeline Licence (whichever is the later) and
7 completed, and first transmission of natural gas to commence,
8 within 2 years thereafter; and
- 9 (f) must provide for the construction of all other proposed
10 facilities, infrastructure and works to commence not later
11 than 12 months after the approval of all of the Joint
12 Venturers' proposals and completed and operational within
13 3 years thereafter.
- 14 The parties also acknowledge that proposals pursuant to subclause (1)
15 shall contemplate the construction, operation and maintenance of the
16 LNG Project Pipeline and access roads and associated pipeline
17 infrastructure within the LNG Project Pipeline Corridor subject to and
18 in accordance with the safety cases and such other plans and
19 requirements from time to time of the Pipelines Act and regulations
20 under the Pipelines Act.
- 21 (4) Each of the proposals submitted pursuant to subclause (1) may with
22 the consent of the Minister and that of any other parties concerned
23 instead of providing for the construction of new facilities or
24 equipment or the provision of new services of the kind therein
25 mentioned provide for the use by the Joint Venturers of any existing
26 facilities equipment or services of such kind belonging to the Joint
27 Venturers (other than the pipe or system of pipes, being part of the
28 Domgas Project Pipeline) or, upon terms and conditions agreed
29 between the Joint Venturers and the other parties of any other existing
30 facilities equipment or services of such kind.
- 31 (5) The Joint Venturers may with the consent of the Minister propose, as
32 part of their proposals under this clause or under clause 23 the
33 construction, establishment, provision, enlargement or extension as
34 the case may be as part of the LNG Project of facilities, equipment or
35 services (other than the pipe or system of pipes, being part of the
36 LNG Project Pipeline) for use as part of the Domgas Project (whether
37 current or proposed).

- 1 (6) Each of the proposals submitted pursuant to subclause (1) may with
2 the approval of the Minister, or must if so required by the Minister, be
3 submitted separately and in any order as to the matter or matters
4 mentioned in one or more of paragraphs (a) to (l) of subclause (1), and
5 until all of their proposals under this clause have been approved the
6 Joint Venturers may withdraw and may resubmit any proposal but the
7 withdrawal of any proposal shall not affect the obligations of the Joint
8 Venturers to submit a proposal under this clause in respect of the
9 subject matter of the withdrawn proposal.
- 10 (7) The Joint Venturers shall, whenever any of the following matters
11 referred to in this subclause are proposed by the Joint Venturers
12 (whether before or during the submission of proposals under this
13 clause), submit to the Minister details of any services (including any
14 elements of the project investigations, design and management) and
15 any works, materials, plant, equipment and supplies that they propose
16 to consider obtaining from or having carried out or permitting to be
17 obtained from or carried out outside Australia, together with their
18 reasons therefor and shall, if required by the Minister consult with the
19 Minister with respect thereto.
- 20 (8) At the time when the Joint Venturers submit the last of the said
21 proposals pursuant to this clause, they shall:
- 22 (a) furnish to the Minister's reasonable satisfaction evidence:
- 23 (i) that the Joint Venturers are financially capable of
24 undertaking the operations to which the said
25 proposals refer; and
- 26 (ii) that the Joint Venturers are ready to embark upon and
27 proceed to carry out the operations referred to in the
28 said proposals; and
- 29 (iii) that the Pipelines Act Minister is ready to, upon the
30 Minister's approval of the said proposals, grant the
31 LNG Project Pipeline Licence; and
- 32 (iv) that the Pipelines Act Minister is ready to, upon the
33 Minister's approval of the said proposals, grant all
34 consents required under the Pipelines Act or
35 regulations made thereunder for the commencement
36 of pipeline construction; and

- 1 (v) the DBNGP Land Access Minister is ready to, upon
2 the Minister's approval of the said proposals, grant
3 any DBP Act section 41(2)(b) approval and DBP Act
4 section 34 access right required by the Joint
5 Venturers; and
- 6 (vi) that the Joint Venturers hold, or the readiness of
7 relevant authorities and agencies to, upon the
8 Minister's approval of their proposals, grant
9 approvals, consents, licences or other rights required
10 to implement the proposals; and
- 11 (b) furnish to the Minister the consents required by the Land Act
12 Minister (acting with the concurrence of the Minister) for the
13 grant of the LNG Project Pipeline Easement as referred to in
14 clause 20(3)(a); and
- 15 (c) furnish to the Minister (if required by the Minister) the local
16 industry participation plan referred to in clause 7(3) as
17 applying pursuant to clause 7(6).

18 **22. Consideration of LNG Project proposals**

- 19 (1) In respect of each proposal submitted pursuant to clause 21(1) the
20 Minister shall subject to the Environmental Protection Act:
- 21 (a) approve of the proposal without qualification or reservation;
22 or
- 23 (b) defer consideration of or decision upon the same until such
24 time as the Joint Venturers submit a further proposal or
25 proposals in respect of some other of the matters mentioned
26 in clause 21(1) not covered by the said proposal or until such
27 time as clause 21(8) has been complied with by the Joint
28 Venturers; or
- 29 (c) require as a condition precedent to the giving of his approval
30 to the said proposal that the Joint Venturers make such
31 alteration thereto or comply with such conditions in respect
32 thereto as he (having regard to the circumstances including
33 the overall development of and the use by others as well as
34 the Joint Venturers of all or any of the facilities proposed to

- 1 be provided) think reasonable and in such a case the Minister
2 shall disclose his reasons for such conditions,
- 3 PROVIDED ALWAYS that where implementation of any proposals
4 hereunder have been approved pursuant to the Environmental
5 Protection Act subject to conditions or procedures, any approval or
6 decision of the Minister under this clause shall if the case so requires
7 incorporate a requirement that the Joint Venturers make such
8 alterations to the proposals as may be necessary to make them accord
9 with those conditions or procedures.
- 10 (2) The Minister shall within 2 months after the later of:
- 11 (a) receipt of proposals pursuant to clause 21(1);
- 12 (b) where the proposals are to be assessed under Part IV of the
13 Environmental Protection Act, service on the Minister of an
14 authority under section 45(7) of the Environmental Protection
15 Act;
- 16 (c) where a proposal will or may require the State to do any act
17 which affects any native title rights and interests, completion
18 of all processes required by laws relating to native title to be
19 undertaken by the State before that act may be done by the
20 State; and
- 21 (d) approval pursuant to clause 12 of all proposals required by
22 clause 11 to be submitted for the Domgas Project,
- 23 give notice to the Joint Venturers of his decision in respect to the
24 proposals.
- 25 (3) If the decision of the Minister is as mentioned in either of
26 paragraphs (b) or (c) of subclause (1) the Minister shall afford the
27 Joint Venturers full opportunity to consult with him and should they
28 so desire to submit new or revised proposals either generally or in
29 respect to some particular matter.
- 30 (4) If the decision of the Minister is as mentioned in either of
31 paragraphs (b) or (c) of subclause (1) and the Joint Venturers consider
32 that the decision is unreasonable the Joint Venturers within 2 months
33 after receipt of the notice mentioned in subclause (2) may elect to
34 refer to arbitration in the manner hereinafter provided the question of
35 the reasonableness of the decision provided that any requirement of

- 1 the Minister pursuant to the proviso to subclause (1) shall not be
2 referable to arbitration hereunder.
- 3 (5) An award made on an arbitration pursuant to subclause (4) shall have
4 force and effect as follows:
- 5 (a) if by the award the dispute is decided against the Joint
6 Venturers then the decision shall take effect as a notice by the
7 Joint Venturers that they accept the award; or
- 8 (b) if by the award the dispute is decided in favour of the Joint
9 Venturers the decision shall take effect as a notice by the
10 Minister that the Minister is so satisfied with and approves
11 the matter or matters the subject of the arbitration.
- 12 (6) Subject to and in accordance with the Environmental Protection Act
13 and any approvals and licences required under that Act the Joint
14 Venturers shall implement the approved proposals in accordance with
15 the terms thereof.
- 16 (7) Notwithstanding clause 35, the Minister may during the
17 implementation of approved proposals approve variations to those
18 proposals.
- 19 **23. Expansion of LNG Project**
- 20 (1) If the Joint Venturers at any time during the currency of this
21 Agreement desire to:
- 22 (a) extend or enlarge the LNG Project Pipeline or a LNG Project
23 Treatment Plant or increase the capacity of that pipeline or
24 treatment plant beyond that specified in the approved
25 proposals; or
- 26 (b) connect an existing or proposed pipeline to the LNG Project
27 Pipeline; or
- 28 (c) otherwise to significantly modify, expand or otherwise vary
29 their activities that are the subject of this Agreement and that
30 may be carried on by them pursuant to this Agreement as part
31 of the LNG Project beyond those activities specified in the
32 then approved proposals,
- 33 they shall give notice of such desire to the Minister and furnish to the
34 Minister with that notice an outline of their proposals in respect

- 1 thereto (including such matters mentioned in clauses 20 and 21(1) as
2 are relevant or as the Minister otherwise requires).
- 3 (2) The Minister shall within one month after receiving a notice under
4 subclause (1) advise the Joint Venturers whether or not he approves
5 in-principle the proposed extension, enlargement, increase,
6 connection or other modification, expansion or variation. An
7 in-principle approval by the Minister under this subclause may be
8 given subject to conditions including a condition requiring variations
9 or additions to this Agreement provided that any such condition shall
10 not without the consent of the Joint Venturers require variations of:
- 11 (a) the term of any Petroleum Titles or rentals or royalties
12 payable thereunder; or
- 13 (b) the rates or method of calculating royalty on petroleum
14 produced from the Petroleum Titles.
- 15 The Minister shall afford the Joint Venturers full opportunity to
16 consult with the Minister in respect of any decision of the Minister
17 under this subclause.
- 18 (3) If the Minister gives in-principle approval under subclause (2) the
19 Joint Venturers may but not otherwise submit detailed proposals in
20 respect thereof provided that the provisions of clause 5 (other than
21 subclauses (1)(a), (1)(b)(i)) and (if the proposals are to include an
22 extension or enlargement of the LNG Project Pipeline) clause 20 shall
23 mutatis mutandis apply prior to submission of detailed proposals in
24 respect thereof.
- 25 (4) Subject to the Environmental Protection Act and the provisions of this
26 Agreement, the Joint Venturers shall submit to the Minister within a
27 reasonable timeframe (as determined by the Minister) after the giving
28 of the Minister's in-principle approval, detailed proposals in respect
29 thereof in accordance with any conditions of that approval otherwise
30 that in-principle approval shall lapse.
- 31 (5) The provisions of clause 21 (other than subclauses (3)(c), with the
32 reference in subclause (8)(a)(iii) being read as a reference to the
33 Pipelines Act Minister being ready to vary the LNG Project Pipeline
34 Licence to accord with the proposals once approved and with the
35 reference in clause 21(8)(b) being read as a reference to
36 clause 20(3)(b)) and of clause 22 (other than subclause (6)) shall

- 1 mutatis mutandis apply to detailed proposals submitted pursuant to
2 this clause. The Joint Venturers may withdraw such proposals at any
3 time before approval thereof or, where any decision of the Minister in
4 respect thereof is referred to arbitration, within 3 months after the
5 award by notice to the Minister that it shall not be proceeding with the
6 same. In that event the Minister's in-principle approval shall lapse.
- 7 (6) Subject to and in accordance with the Environmental Protection Act
8 and any approvals or licences required under those Acts, the Joint
9 Venturers shall implement approved proposals pursuant to this clause
10 in accordance with the terms thereof.
- 11 **24. Treatment, use and delivery of gas from other areas**
- 12 (1) In addition to natural gas from the Title Areas, the Joint Venturers
13 may, as part of the Domgas Project process and use natural gas from
14 areas other than the Title Areas provided they have the prior consent
15 of the Minister.
- 16 (2) In addition to their obligations as referred to in clause 18 concerning
17 third party access to the LNG Project Pipeline, the Joint Venturers
18 may use the LNG Project Pipeline to convey natural gas obtained by
19 them from areas outside the Title Areas (including natural gas
20 purchased by them from any third party) to the LNG Production
21 Facility (or to a third party pipeline for conveyance to the LNG
22 Production Facility) for the production from it of liquefied natural gas
23 for export provided that they have the prior consent of the Minister.
- 24 (3) The Minister's consent may be given subject to conditions including a
25 condition requiring variations or additions to this Agreement provided
26 that any such condition shall not without the consent of the Joint
27 Venturers require variations of:
- 28 (a) the term of this Agreement or of any of the Project Titles; or
29 (b) the rentals or licence or easement fees payable under any of
30 the Project Titles.
- 31 The Minister shall afford the Joint Venturers full opportunity to
32 consult with him in respect of any decision of the Minister under this
33 subclause.

1 **25. Compliance with Laws**

2 (1) In the construction, operation, maintenance and use of the Project
3 Pipelines the Joint Venturers shall at all times comply with, observe
4 and perform the provisions of this Agreement, the Pipelines Act (as
5 modified by this Agreement), the Pipeline Licences and any other
6 applicable Laws for the time being in force in the said State.

7 (2) In the construction, operation, maintenance and use of any other
8 facility or infrastructure, work, installation, plant, machinery,
9 equipment or service provided or controlled by the Joint Venturers,
10 the Joint Venturers shall throughout the currency of this Agreement
11 comply with and observe the provisions of this Agreement and
12 subject thereto the Laws for the time being in force in the said State.

13 **26. Maintenance**

14 Throughout the currency of this Agreement the Joint Venturers shall
15 at all times keep and maintain in good repair and working order and
16 condition (which obligation includes, where necessary, replacing or
17 renewing all parts which are worn out or in need of replacement or
18 renewal due to their age or condition) all facilities and other
19 infrastructure, works, installations, roads, plant machinery and
20 equipment for the time being the subject of this Agreement.

21 **27. Use of local labour professional services and materials**

22 (1) Except as otherwise agreed by the Minister the Joint Venturers shall,
23 for the purposes of this Agreement in connection with the
24 developments proposed or to be proposed as the case may be pursuant
25 to clauses 11, 13, 21 or 23:

26 (a) except in those cases where the Joint Venturers can
27 demonstrate it is not reasonable and economically practicable
28 so to do, use labour available within the said State (using all
29 reasonable endeavours to ensure that as many as possible of
30 the workforce be recruited from the north west region of the
31 said State) or if such labour is not available then, except as
32 aforesaid, use labour otherwise available within Australia;

33 (b) as far as it is reasonable and economically practicable so to
34 do, use the services of engineers, surveyors, architects and
35 other professional consultants experts and specialists, project

- 1 managers, manufacturers, suppliers and contractors resident
2 and available within the said State, or if such services are not
3 available within the said State, then, as far as practicable as
4 aforesaid, use the services of such persons otherwise
5 available within Australia;
- 6 (c) during design and when preparing specifications, calling for
7 tenders and letting contracts for works, materials, plant,
8 equipment and supplies (which shall at all times, except
9 where it is impracticable so to do, use or be based upon
10 Australian Standards and Codes) ensure that suitably
11 qualified Western Australian and Australian suppliers,
12 manufacturers and contractors are given full, fair and
13 reasonable opportunity to tender or quote;
- 14 (d) give proper consideration and, where possible, preference to
15 Western Australian suppliers, manufacturers and contractors
16 when letting contracts or placing orders for works, materials,
17 plant, equipment and supplies where price, quality, delivery
18 and service are equal to or better than that obtainable
19 elsewhere or, subject to the foregoing, give that consideration
20 and, where possible, preference to other Australian suppliers,
21 manufacturers and contractors; and
- 22 (e) if, notwithstanding the foregoing provisions of this subclause,
23 a contract is to be let or an order is to be placed with other
24 than a Western Australian or Australian supplier,
25 manufacturer or contractor, give proper consideration and,
26 where possible, preference to tenders, arrangements or
27 proposals that include Australian participation where price,
28 delivery and service are otherwise equal or better.
- 29 (2) Except as otherwise agreed by the Minister, the Joint Venturers shall,
30 in every contract entered into with a third party where the third party
31 has an obligation or right to procure the supply of services, labour,
32 works, materials, plant, equipment or supplies for the purposes of this
33 Agreement require as a condition thereof that such third party shall
34 undertake:
- 35 (a) the same obligations as are referred to in subclause (1) and
36 shall report to the Joint Venturers concerning such third
37 party's implementation of that condition; and

- 1 (b) procurement activities in accordance with each local industry
2 participation plan provided under clauses 11(8)(c), 13,
3 21(8)(c) or 23 as may be amended in accordance with
4 clause 7(5).
- 5 (3) The Joint Venturers shall:
- 6 (a) in respect of developments the subject or to be the subject (as
7 the case may be) of proposals submitted under clause 11,
8 submit a report to the Minister at quarterly intervals from the
9 date specified in clause 3(4) to the date of the first submission
10 of proposals under clause 11 and thereafter at monthly
11 intervals until commissioning of the developments and
12 thereafter as requested by the Minister from time to time; and
- 13 (b) in respect of development the subject or to be the subject (as
14 the case may be) or proposals submitted under clause 21,
15 submit a report to the Minister at quarterly intervals from the
16 commencement of consultation under clause 20 to the date of
17 the first submission of proposals under clause 21 and
18 thereafter at monthly intervals until commissioning of the
19 developments and thereafter as requested by the Minister
20 from time to time; and
- 21 (c) in respect of developments the subject or to be the subject (as
22 the case may be) of proposals submitted under clauses 13
23 or 23 as the case may be submit a report to the Minister at
24 quarterly intervals from the date on which it gives notice
25 under clause 13(1) or 23(1) as the case may be to the date of
26 the first submission of proposals in connection with that
27 notice under clauses 13 or 23 as the case may be and
28 thereafter at monthly intervals until commissioning of the
29 developments the subject of the proposals approved pursuant
30 to clause 13 or 23 as the case may be and thereafter as
31 requested by the Minister from time to time,
- 32 concerning their implementation of the provisions of this clause and
33 of the relevant local industry participation plan provided in
34 connection with the development, together with a copy of any report
35 received by the Joint Venturers pursuant to subclause (2) during that
36 month or longer period as the case may be provided that the Minister
37 may agree that any such reports need not be provided in respect of

1 contracts of such kind or value as the Minister may from time to time
2 determine.

3 (4) The Joint Venturers shall keep the Minister informed on a regular
4 basis as determined by the Minister from time to time or otherwise as
5 reasonably required by the Minister during the currency of this
6 Agreement of any services (including any elements of the project
7 investigations, design and management) and any works, materials,
8 plant, equipment and supplies that they may be proposing to obtain
9 from or have carried out or permit to be obtained from or carried out
10 outside Australia, together with their reasons therefor and shall, as
11 and when required by the Minister, consult with the Minister with
12 respect thereto.

13 **28. Petrochemical feed stocks**

14 The Joint Venturers acknowledge the potential economic value to
15 Western Australia of the processing of Petrochemical feed stocks.
16 Accordingly during the continuance of this Agreement the Joint
17 Venturers shall, in accordance with clause 8(4), market and make
18 available for sale Petrochemical feed stocks to any then existing or
19 proposed producer of petrochemicals within the said State.

20 **29. No discriminatory charges**

21 Except as provided in this Agreement the State must not impose, nor
22 shall it permit or authorise any local government or any agency,
23 instrumentality or other authority of the State to impose,
24 discriminatory taxes, rates or charges of any nature whatsoever on or
25 in respect of the titles, property or other assets, products, materials or
26 services used or produced by or through the activities of the Joint
27 Venturers in the conduct of the Domgas Project or the LNG Project
28 nor will the State take or permit to be taken by any such State agency,
29 instrumentality or other authority any other discriminatory action
30 which would deprive the Joint Venturers of full enjoyment of the
31 rights granted or intended to be granted under this Agreement. In the
32 application of this clause the conferral of rights upon parties to other
33 Government agreements shall be disregarded.

34 **30. Taking of land for the purposes of this Agreement**

35 (1) The State is hereby empowered, as and for a public work under
36 Parts 9 and 10 of the Land Act and the *Public Works Act 1902* (WA),

- 1 to take for the purposes of this Agreement any land (other than any
2 part of a Port or of the DBNGP corridor) which in the opinion of the
3 Joint Venturers is necessary for either or both of the Domgas Project
4 and the LNG Project and which the Minister determines is appropriate
5 to be taken for either or both or the Domgas Project and the LNG
6 Project (except any land the taking of which would be contrary to the
7 provisions of a Government agreement entered into before the
8 submission of the proposals relating to the proposed taking) and
9 notwithstanding any other provisions of those Acts may lease, license
10 or grant an easement of that land to the Joint Venturers.
- 11 (2) In applying Parts 9 and 10 of the Land Act and the *Public Works*
12 *Act 1902* (WA) for the purposes of this Clause -
- 13 (a) "land" in those Acts includes a legal or equitable estate or
14 interest in land;
- 15 (b) sections 170, 171, 172, 173, 174, 175 and 184 of the Land
16 Act do not apply; and
- 17 (c) the Land Act applies as if it were modified in section 177(2)
18 by inserting -
- 19 (i) after "railway" the following -
20 "or land is being taken pursuant to a Government
21 agreement as defined in section 2 of the *Government*
22 *Agreements Act 1979* (WA)"; and
- 23 (ii) after "that Act" the following -
24 "or that agreement as the case may be".
- 25 (3) The Joint Venturers shall pay to the State on demand the costs of or
26 incidental to any land taken at the request of and on behalf of the Joint
27 Venturers including but not limited to any compensation payable to
28 any holder of native title or of native title rights and interests in the
29 land.
- 30 **31. No taking of land**
- 31 Subject to the performance by the Joint Venturers of their obligations
32 under this Agreement the State shall not, during the currency of this
33 Agreement, without the consent of the Joint Venturers, take or suffer
34 or permit to be taken by any local government or by any agency,

1 instrumentality or other authority of the State any of the facilities,
2 other infrastructure, works, installations, plant, equipment or other
3 property for the time being belonging to the Joint Venturers and the
4 subject of or used for the purpose of this Agreement or any of the
5 works on the lands the subject of the Project Titles and, without such
6 consent (which shall not be unreasonably withheld), the State shall
7 not create or grant or permit or suffer to be created or granted by any
8 agency, instrumentality or other authority of the State any road,
9 right-of-way, water right or easement of any nature or kind
10 whatsoever over or in respect of any such lands which may unduly
11 prejudice or interfere with the Joint Venturers' activities under this
12 Agreement.

13 **32. Commonwealth licences and consents**

14 (1) The Joint Venturers shall from time to time make application to the
15 Commonwealth or to the Commonwealth constituted agency,
16 authority or instrumentality concerned for the grant to them of any
17 licence or consent under the laws of the Commonwealth necessary to
18 enable or permit the Joint Venturers to enter into this Agreement and
19 to perform any of their obligations hereunder.

20 (2) On request by the Joint Venturers the State shall make representations
21 to the Commonwealth or to the Commonwealth constituted agency,
22 authority or instrumentality concerned for the grant to the Joint
23 Venturers of any licence or consent mentioned in subclause (1).

24 **33. Assignment**

25 (1) Subject to the provisions of this clause a Joint Venturer may at any
26 time assign, mortgage, charge, sublet or dispose of to another Joint
27 Venturer as of right or to any other person with the consent of the
28 Minister the whole or any part of its rights hereunder (including its
29 rights as the holder, together with the other Joint Venturers, of the
30 Pipeline Licences, the Pipeline Easements and other Project Titles)
31 and of its obligations hereunder subject however in the case of an
32 assignment or disposition to the assignee or disponent (as the case may
33 be) executing in favour of the State (unless the Minister otherwise
34 determines) a deed of covenant in a form to be approved by the
35 Minister to comply with observe and perform the provisions hereof on
36 the part of the Joint Venturer to be complied with, observed or
37 performed in regard to the matter or matters the subject of such

- 1 assignment or disposition. However, the assignment and disposition
2 rights conferred by this subclause are subject to each Joint Venturer
3 (post such assignment or disposition) being a legal and beneficial
4 holder of one or more Petroleum Titles and to the Joint Venturers
5 from time to time together continuing to be the sole legal and
6 beneficial holders of each of the Petroleum Titles.
- 7 (2) Subject to the provisions of this clause a Joint Venturer may at any
8 time assign, mortgage, charge, sublet or dispose of (including by
9 transfer) to another Joint Venturer as of right or to any other person
10 with the consent of the Minister the whole or any part of its legal and
11 beneficial holding of a Petroleum Title subject however in the case of
12 an assignment or disposition:
- 13 (a) to the assignee or donee (as the case may be) being a Joint
14 Venturer or becoming in accordance with this clause a Joint
15 Venturer upon or contemporaneously with such assignment
16 or disposition; and
- 17 (b) to the assignor or disponent ceasing to be a Joint Venturer
18 upon or contemporaneously with such assignment or
19 disposition if, following such assignment or disposition, the
20 assignor or disponent will not be a legal and beneficial owner
21 (by itself or together with one or more other Joint Venturers)
22 of a Petroleum Title; and
- 23 (c) to the assignee or donee executing in favour of the State
24 (unless the Minister otherwise determines) a deed of covenant
25 in a form to be approved by the Minister to comply with
26 observe and perform the provisions hereof on the part of the
27 Joint Venturer to be complied with, observed or performed in
28 regard to the matter or matters the subject of such assignment
29 or disposition.
- 30 (3) Notwithstanding anything contained in or anything done under or
31 pursuant to subclauses (1) or (2) the Joint Venturer will at all times
32 during the currency of this Agreement be and remain liable for the
33 due and punctual performance and observance of all the covenants
34 and agreements on its part contained in this Agreement provided that
35 the Minister may agree to release the Joint Venturer from such
36 liability where the Minister considers such release will not be contrary
37 to the interests of the State.

- 1 (4) The Minister must consult with:
- 2 (a) the Pipelines Act Minister before granting any consent under
- 3 subclause (1) in respect of a Pipeline Licence; and
- 4 (b) the Land Act Minister before granting any consent under
- 5 subclause (1) in respect of the Pipeline Easements or other
- 6 Project Titles granted under the Land Act; and
- 7 (c) the DBNGP Land Access Minister before granting any
- 8 consent under subclause (1) in respect of any Project Titles
- 9 granted under the DBP Act; and
- 10 (d) the Petroleum Act Minister before granting any consent under
- 11 subclause (2) in respect of a Petroleum Title.
- 12 (5) Notwithstanding the provisions of the DBP Act, the Land Act, the
- 13 Petroleum Act or the Pipelines Act insofar as the same may apply, but
- 14 subject to subclause (4):
- 15 (a) no assignment, mortgage, charge, sublease or disposition
- 16 (including by transfer) made or given of or over the
- 17 Petroleum Titles, the Pipeline Licences, the Pipeline
- 18 Easements or other Project Titles in accordance with the
- 19 provisions of subclauses (1) or (2) and the terms of consent
- 20 thereunder; and
- 21 (b) no transfer, assignment, mortgage or sublease made or given
- 22 in exercise of any power contained in any such mortgage or
- 23 charge,
- 24 shall require any approval or consent other than such consent as may
- 25 be necessary under subclauses (1) or (2) and no equitable mortgage or
- 26 charge shall be rendered ineffectual by the absence of any approval or
- 27 consent (otherwise than as required by this clause).
- 28 **34. Sale or other disposal of Domgas Project Pipeline**
- 29 (1) The Joint Venturers may after the Domgas Project Operation Date and
- 30 with the prior consent of the Minister at the time (after consulting the
- 31 Pipelines Act Minister and the DBNGP Land Access Minister) sell or
- 32 otherwise dispose of the whole or part of their rights to and as the
- 33 holder of the Domgas Project Pipeline (together with the Domgas
- 34 Project Pipeline Licence, the Domgas Project Pipeline Easement and

- 1 other Project Titles granted to the Joint Venturers in accordance with
2 approved proposals for the Domgas Project and which are reasonably
3 required for the continued operation, maintenance, inspection or
4 repair of the Domgas Project Pipeline) on the basis of:
- 5 (a) the Domgas Project Pipeline and associated facilities and
6 other infrastructure to be sold or otherwise disposed of being
7 excluded from the scope of the Domgas Project; and
- 8 (b) this Agreement ceasing to apply to the Domgas Project
9 Pipeline, the abovementioned associated facilities and other
10 infrastructure, the Domgas Project Pipeline Licence, the
11 Domgas Project Pipeline Easement and other
12 abovementioned Project Titles.
- 13 (2) The Minister's consent under subsection (1) may be given subject to
14 conditions including any one or more of the following, namely:
- 15 (a) variations of the Joint Venturers' approved proposals with
16 respect to the Domgas Project to reflect the proposed sale or
17 disposal;
- 18 (b) variations of the Domgas Project Pipeline Licence;
- 19 (c) variations of the Domgas Project Pipeline Easement and other
20 abovementioned Project Titles;
- 21 (d) that the Domgas Project Pipeline continue to be used to
22 convey Domgas;
- 23 (e) that the Domgas Project Pipeline is to be expanded, its
24 capacity increased or subject to additional maintenance or
25 repair works;
- 26 (f) that a third party is to be given or is to retain certain access
27 and usage rights in relation to the Domgas Project Pipeline;
- 28 (g) that the Domgas Project Pipeline is to be subject to a
29 particular third party access or gas transmission regime;
- 30 (h) that this Agreement be varied (if necessary) to accommodate
31 the proposed sale or disposal;
- 32 (i) that this Agreement be determined; and

- 1 (j) that the Joint Venturers, the transferee or disponent (as the
2 case may be) and the State (if necessary) enter into a
3 contractual arrangement by which the Joint Venturers and the
4 transferee or disponent agree to comply with and facilitate
5 satisfaction of the terms and conditions of the Minister's
6 consent.
- 7 (3) Neither a decision by the Minister under subclause (1) nor any
8 condition imposed by the Minister under subclause (2) shall be
9 referable to arbitration hereunder.
- 10 **35. Variation or determination of Agreement by agreement**
- 11 (1) The parties to this Agreement may from time to time by agreement in
12 writing add to, substitute for, cancel or vary all or any of the
13 provisions of this Agreement for the purpose of more efficiently or
14 satisfactorily implementing or facilitating any of the objects of this
15 Agreement.
- 16 (2) The Minister shall cause any agreement made pursuant to
17 subclause (1) to be laid on the Table of each House of Parliament
18 within 12 sitting days next following its execution.
- 19 (3) Either House may, within 12 sitting days of that House after the
20 agreement has been laid before it, pass a resolution disallowing the
21 agreement, but if after the last day on which the agreement might
22 have been disallowed neither House has passed such a resolution the
23 agreement shall have effect from and after that last day.
- 24 (4) Subject to subclause (5), the Joint Venturers may not earlier than
25 31 December 2015 or later than 31 March 2016, give notice to the
26 State that they do not intend to submit proposals for the Domgas
27 Project for any one or more of the following reasons:
- 28 (a) the Joint Venturers have been unable to prove up sufficient
29 reserves of natural gas within the Title Areas to underpin the
30 establishment and sustained operation of a technically and
31 economically viable Domgas Project; or
- 32 (b) the Joint Venturers' preparatory work under clause 5(1)(b)
33 leads them to conclude that the production of natural gas to
34 underpin the establishment and sustained operation of a
35 Domgas Project is not technically viable; or

1 (c) the Joint Venturers' preparatory work under clause 5(1)(b)
2 leads them to conclude that the establishment and sustained
3 operation of a Domgas Project is otherwise not economically
4 viable.

5 Upon the Joint Venturers giving the abovementioned notification in
6 accordance with this subclause this Agreement shall cease and
7 determine.

8 (5) The Joint Venturers' right to give notice under subclause (4) is subject
9 to:

10 (a) the Joint Venturers having first consulted the Minister in
11 regard thereto including as to the reasons why they propose to
12 give such notice; and

13 (b) 21 days having elapsed since they so consulted the Minister;
14 and

15 (c) the Minister and the Joint Venturers having not already
16 reached agreement pursuant to clause 10 or clause 20 as the
17 case may be on all matters in clause 10 or clause 20 as the
18 case may be required to be agreed between them; and

19 (d) the Minister having not granted an extension of the date
20 specified in clause 11(1) for the submission by the Joint
21 Venturers of proposals under clause 11.

22 (6) The parties may at any time after the LNG Project Operation Date by
23 mutual agreement determine this Agreement in relation to the LNG
24 Project provided that no matter in connection with a failure by the
25 parties to agree under this subclause (6) shall be referable to
26 arbitration hereunder.

27 **36. Force majeure**

28 Subject to clauses 8(7) and 11(9), this Agreement shall be deemed to
29 be made subject to any delays in the performance of the obligations
30 under this Agreement and to the temporary suspension of continuing
31 obligations under this Agreement that may be caused by or arise from
32 circumstances beyond the power and control of the party responsible
33 for the performance of those obligations including (without limiting
34 the generality of the foregoing) delays or any such temporary
35 suspension as aforesaid caused by or arising from act of God, force

1 majeure, earthquakes, floods, storms, tempest, cyclones, washaways,
2 fire (unless caused by the actual fault or privity of the party
3 responsible for such performance) act of war, act of public enemies,
4 riots, civil commotions, strikes, lockouts, stoppages, restraint of
5 labour or other similar acts (whether partial or general), acts or
6 omissions of the Commonwealth, shortages of labour or essential
7 materials, reasonable failure to secure contractors, delays of
8 contractors, factors due to overall world economic conditions or
9 factors due to action taken by or on behalf of any government or
10 governmental authority (other than the State or any agency,
11 instrumentality or other authority of the State) or factors that could
12 not reasonably have been foreseen provided always that the party
13 whose performance of obligations is affected by any of the said
14 causes must promptly give notice to the other party or parties of the
15 event or events and shall use its best endeavours to minimise the
16 effects of such causes as soon as possible after the occurrence.

17 **37. Power to extend periods and dates**

- 18 (1) Notwithstanding any provision of this Agreement but subject to
19 subclauses (2) and (3), the Minister may at the request of the Joint
20 Venturers from time to time extend or further extend any period or
21 vary or further vary any date referred to in this Agreement for such
22 period or to such later date as the Minister thinks fit, whether or not
23 the period to be extended has expired or the date to be varied has
24 passed.
- 25 (2) The date specified in clause 11(1) for the submission of proposals
26 under it may only be extended once pursuant to this clause and for a
27 period not exceeding 18 months.
- 28 (3) The Minister may not extend:
- 29 (a) the Suspension Period; or
- 30 (b) the date or notice period specified in clause 12(6); or
- 31 (c) the dates specified in clause 35(4).

32 **38. Determination of Agreement by the State**

- 33 (1) If:
- 34 (a) (i) the Joint Venturers make default which the State
35 considers material in the due performance or

page 76

- 1 within a reasonable time to be fixed by that award provided
2 that if the arbitrator finds that there was a bona fide dispute
3 and that the Joint Venturers were not dilatory in pursuing the
4 arbitration, the time for compliance with the arbitration award
5 shall not be less than 90 days from the date of such award.
- 6 (4) If the default referred to in subclause (1)(a) has not been remedied
7 within a period of 180 days after receipt of the notice referred to in
8 that subclause or within the time fixed by the arbitration award as
9 aforesaid the State instead of determining this Agreement as aforesaid
10 because of such default may itself remedy such default or cause the
11 same to be remedied (for which purpose the State by agents workmen
12 or otherwise shall have full power to enter upon lands occupied by the
13 Joint Venturers and to make use of all plant, machinery, equipment
14 and installations thereon) and the actual costs and expenses incurred
15 by the State in remedying or causing to be remedied such default shall
16 be a debt payable by the Joint Venturers to the State on demand.
- 17 **39. Effect of cessation or determination of Agreement**
- 18 (1) Subject to subclause (6), on the cessation or determination of this
19 Agreement:
- 20 (a) subject to subclause (2) and except as otherwise agreed by the
21 Minister, the rights of the Joint Venturers to, in or under this
22 Agreement and the rights of the Joint Venturers or any
23 mortgagee or chargee to any works constructed under this
24 Agreement or to, in or under the Pipeline Licences, the
25 Pipeline Easements and the other Project Titles (if then still
26 current) shall thereupon cease and determine but without
27 prejudice to the liability of any of the parties hereto in respect
28 of any antecedent breach or default under this Agreement or
29 in respect of any guarantee or indemnity given under this
30 Agreement; and
- 31 (b) except as otherwise agreed by the Minister any pending
32 application for the Domgas Project Pipeline Licence or the
33 LNG Project Pipeline Licence shall be deemed to have been
34 terminated; and
- 35 (c) the Joint Venturers shall forthwith pay to the State all money
36 which may then have become payable or accrued due; and

- 1 (d) the Joint Venturers must, subject to paragraph (a) and
2 subclause (3) and in compliance with subclause (4), in respect
3 of the land the subject of the Pipeline Licences or the Project
4 Titles as the case may be held by the Joint Venturers
5 immediately before such cessation or determination and at the
6 Joint Venturers' expense:
- 7 (i) decommission and remove all facilities and other
8 infrastructure established or constructed on such land
9 under this Agreement or otherwise under the Pipeline
10 Licences, the Pipeline Easements or the other Project
11 Titles as the case may be; and
- 12 (ii) reinstate and rehabilitate such land; and
- 13 (e) save as aforesaid and as otherwise provided in this
14 Agreement none of the parties shall have any claim against
15 the other of them with respect to any matter or thing in or
16 arising out of this Agreement.
- 17 (2) In relation to Petroleum Titles then in force:
- 18 (a) the benefit of the rights and privileges conferred by this
19 Agreement, and any modification by this Agreement of any
20 Act or law shall cease to apply; and
- 21 (b) such title being a petroleum exploration permit shall continue
22 in force under and subject to the Petroleum Act (including,
23 subject to the exception referred to below, compliance with
24 any works programme to which it is subject in accordance
25 with clause 14) and if it has been renewed during the
26 Suspension Period with the benefits of the modifications of
27 the Petroleum Act referred to in clause 14(1)(a) and (b) for
28 the lesser of the balance of its remaining term and the period
29 of 6 months commencing on the date after the expiration or
30 earlier cessation of this Agreement; and
- 31 (c) such title being a petroleum drilling reservation, retention
32 lease or a production licence shall continue in force under and
33 subject to the Petroleum Act for the balance of its remaining
34 term.

- 1 In relation to a petroleum exploration permit, if the balance of its
2 remaining term would but for the reduction in its term as referred to in
3 paragraph (b) otherwise have been more than 6 months, then the Joint
4 Venturers shall only be required to comply with the abovementioned
5 works programme to the extent it was required to be undertaken prior
6 to the expiry of its reduced term.
- 7 (3) The Joint Venturers' obligations under subclause (1)(d) shall not apply
8 to the extent:
- 9 (a) in respect of facilities or other infrastructure established or
10 constructed under the authority of a Pipeline Easement or
11 other Project Title granted under the Land Act, the Land Act
12 Minister gives notice to the Joint Venturers within 6 months
13 after the cessation or determination of this Agreement that the
14 Land Act Minister does not require the Joint Venturers to
15 decommission and remove such facilities or other
16 infrastructure; and
- 17 (b) in respect of facilities or other infrastructure established or
18 constructed under the authority of a Pipeline Licence, the
19 Pipelines Act Minister gives notice to the Joint Venturers
20 within 6 months after the cessation or determination of this
21 Agreement that it does not require the Joint Venturers to
22 decommission and remove such facilities or other
23 infrastructure; and
- 24 (c) in respect of facilities or other infrastructure established or
25 constructed under the authority of Project Title granted under
26 the DBP Act, the DBNGP Land Access Minister gives notice
27 to the Joint Venturers within 6 months after the cessation or
28 determination of this Agreement that the DBNGP Land
29 Access Minister does not require the Joint Venturers to
30 decommission and remove such facilities or other
31 infrastructure.
- 32 (4) In carrying out any works required by subclause (1)(d) the Joint
33 Venturers must at all times comply with all relevant Laws (including
34 the Environmental Protection Act, the Contaminated Sites Act and the
35 Pipelines Act), this Agreement, and subject thereto, the provisions of
36 the relevant Pipeline Licences, Pipeline Easements and Project Titles.

- 1 (5) Upon the cessation or determination of this Agreement except as
2 otherwise agreed by the Minister, the facilities and other infrastructure
3 the subject of a notice from the Land Act Minister as referred to in
4 subclause (3)(a) or the subject of a notice from the Pipelines Act
5 Minister as referred to in subclause (3)(b) or the subject of a notice
6 from the DBNGP Land Access Minister as referred to in
7 subclause (3)(c) shall become and remain (to the extent they have not
8 already become so) the absolute property of the State without
9 payment of any compensation to the Joint Venturers or any other
10 party and freed and discharged from all mortgages and encumbrances
11 and the Joint Venturers shall do and execute all such deeds,
12 documents and other acts, matter and things (including surrenders) as
13 the State may require to give effect to the provisions of this subclause.
- 14 (6) On the determination of this Agreement in relation to the LNG Project
15 by mutual agreement of the parties as referred to in clause 35(6):
- 16 (a) the rights of the Joint Venturers in and under, this Agreement
17 to continue to undertake the LNG Project under and pursuant
18 to this Agreement shall thereupon cease and determine but
19 without prejudice to the liability of any of the parties hereto
20 in respect of any antecedent breach or default under this
21 Agreement or in respect of any guarantee or indemnity given
22 under this Agreement; and
- 23 (b) the Joint Venturers shall forthwith pay to the State all money
24 which may then have become payable or accrued due in
25 respect of the LNG Project; and
- 26 (c) in respect of the LNG Project Pipeline Licence, the LNG
27 Project Pipeline Easement and other Project Titles (granted to
28 the Joint Venturers in accordance with approved proposals
29 for the LNG Project) then in force:
- 30 (i) the benefit of the rights and privileges conferred by
31 this Agreement, and any modification by this
32 Agreement of any Act or law shall cease to apply;
33 and
- 34 (ii) the LNG Project Pipeline Licence shall continue in
35 force under and subject to the Pipelines Act with such
36 variations as the Pipelines Act Minister (with the

- 1 concurrence of the Minister and after consulting the
2 Joint Venturers) considers reasonable; and
- 3 (iii) the LNG Project Pipeline Easement shall continue in
4 force under and subject to the Pipelines Act with such
5 variations as the Land Act Minister (with the
6 concurrence of the Minister and after consulting the
7 Pipeline Act Minister and the Joint Venturers)
8 considers reasonable; and
- 9 (iv) the other abovementioned Project Titles granted
10 under the Land Act shall continue in force under and
11 subject to the Land Act with such variations as the
12 Land Act Minister (with the concurrence of the
13 Minister and after consulting the Joint Venturers)
14 considers reasonable; and
- 15 (v) the other abovementioned Project Titles granted
16 under the DBP Act shall continue in force under and
17 subject to the DBP Act with such variations as the
18 DBNGP Land Access Minister (with the concurrence
19 of the Minister and after consulting the Joint
20 Venturers) considers reasonable.

21 **40. Indemnity**

22 The Joint Venturers shall indemnify and keep indemnified the State
23 and its servants agents and contractors in respect of all actions suits
24 claims demands or costs of third parties arising out of or in
25 connection with any work carried out by or on behalf of the Joint
26 Venturers pursuant to this Agreement or relating to its activities
27 hereunder or arising out of or in connection with the construction
28 maintenance or use by the Joint Venturers or their servants agents
29 contractors, sublessees or assignees of the Joint Venturers' facilities,
30 other infrastructure, works or services the subject of this Agreement
31 or the plant apparatus or equipment installed in connection therewith
32 provided that subject to the provisions of any relevant Act such
33 indemnity will not apply in circumstances where the State, its
34 servants, agents, or contractors are negligent in carrying out work for
35 the Joint Venturers pursuant to this Agreement.

41. Subcontracting

Without affecting the liabilities of the parties under this Agreement each of the State and the Joint Venturers will have the right from time to time to entrust to third parties the carrying out of any portions of the activities which it is authorised or obliged to carry out hereunder.

42. Arbitration

- (1) Except as provided in this Agreement, any dispute or difference between the State and the Joint Venturers arising out of or in connection with this Agreement, the construction of this Agreement or as to the rights duties or liabilities of either of them under this Agreement or as to any matter to be agreed upon between them under this Agreement must, in default of agreement between them and in the absence of any provision in this Agreement to the contrary, be referred to and settled by arbitration under the provisions of the *Commercial Arbitration Act 1985* (WA) each party may be represented before the arbitrator by a duly qualified legal practitioner or other representative.
- (2) Any party to a dispute may appeal to the Supreme Court of Western Australia on any question of law arising out of an interim or final award in an arbitration.
- (3) Except where otherwise provided in this Agreement, the provisions of this clause will not apply to any case where the State, the Minister or any other Minister in the Government of the State is by this Agreement given either expressly or impliedly a discretionary power.
- (4) The arbitrator of any submission to arbitration under this Agreement is hereby empowered upon the application of either the State or the Joint Venturers, to grant in the name of the Minister any interim extension of any period or variation of any date referred to herein (which the Minister would otherwise be permitted to make pursuant to clause 37) which having regard to the circumstances may reasonably be required in order to preserve the rights of that party or of the parties to the arbitration and an award may in the name of the Minister grant any further extension or variation for that purpose.

1 **43. Consultation**

2 (1) The Joint Venturers must during the currency of this Agreement
3 consult with and keep the State fully informed on a confidential basis
4 concerning any action that the Joint Venturers propose to take with
5 any third party (including the Commonwealth or any Commonwealth
6 constituted agency, authority, instrumentality or other body) which
7 might significantly affect the overall interest of the State under this
8 Agreement.

9 (2) The Joint Venturers must during the currency of this Agreement
10 consult with and keep the State fully informed with respect to
11 significant events that might materially affect the establishment and
12 sustained operation of, and ownership of, the Domgas Project or the
13 LNG Project by the Joint Venturers.

14 **44. Notices**

15 Any notice consent or other writing authorised or required by this
16 Agreement to be given or sent by the State to the Joint Venturers or to
17 the Guarantor will be deemed to have been duly given or sent if
18 signed by the Minister or by any senior officer of the Public Service
19 of the State acting by the direction of the Minister and forwarded by
20 prepaid post or handed to the Joint Venturers or to the Guarantor as
21 the case may be at their addresses or its address as hereinbefore set
22 forth or other address in the said State nominated by the Joint
23 Venturers or by the Guarantor as the case may be to the Minister and
24 by the Joint Venturers or by the Guarantor to the State if signed on
25 their or its behalf by any person or persons authorised by the Joint
26 Venturers or by the Guarantor as the case may be or by their or its
27 solicitors as notified to the State from time to time and forwarded by
28 prepaid post or handed to the Minister and except in the case of
29 personal service any such notice consent or writing shall be deemed to
30 have been duly given or sent on the day on which it would be
31 delivered in the ordinary course of post.

32 **45. Mitsubishi Corporation guarantee of subsidiaries' performance**

33 Notwithstanding any addition to or deletion or variation of the
34 provisions of this Agreement or any time or other indulgence granted
35 by the State or by the Minister to the Joint Venturers or to either or
36 both of Diamond Resources (Fitzroy) Pty Ltd or Diamond Resources
37 (Canning) Pty Ltd whether or not notice thereof is given to the

1 Guarantor by the State, the Guarantor hereby guarantees to the State
2 the due performance by each of those companies of all of their
3 obligations to be performed hereunder. The Minister may agree to
4 release the Guarantor from this guarantee where the Minister is
5 reasonably satisfied that those companies have the financial capacity
6 to perform their obligations under this Agreement. Except as
7 provided in a release given under this clause, the guarantee given
8 under this clause shall continue notwithstanding the cessation or
9 determination of this Agreement.

10 **46. Term of Agreement**

11 (1) Subject to the provisions of clauses 38 and 39 and of this clause, this
12 Agreement shall expire on the later of the date occurring 25 years
13 after date on which the last of the Joint Venturers' proposals submitted
14 pursuant to clause 11 for the Domgas Project shall have been
15 approved or determined pursuant to clause 12.

16 (2) The Joint Venturers may, provided there is no default the subject of a
17 notice of default given by the State to the Joint Venturers under
18 clause 38 which has not been remedied, give notice to the Minister
19 not earlier than 2 years before the expiration of the term referred to in
20 subclause (1), of:

21 (a) their desire to have the provisions of this Agreement extended
22 for a further period of up to 25 years; and

23 (b) their plans for the continued undertaking of the Domgas
24 Project during such period.

25 (3) The Minister may, if he is satisfied that the Joint Venturers intend to
26 continue to undertake the Domgas Project during such period, extend
27 the term of this Agreement accordingly.

28 **47. Applicable law**

29 This Agreement is to be interpreted according to the law for the time
30 being in force in the State of Western Australia.
31

SCHEDULE

PETROLEUM EXPLORATION PERMITS

(Petroleum Titles at the date of this Agreement)

4	No. *	Blocks
5	EP371 (R1)	45
6	EP391 (R2)**	30
7	EP428	79
8	EP431	52
9	EP436	30

10 * The location of the abovementioned petroleum exploration permits as at
11 the date of this Agreement is shown on the Plan.

12 ** Subject to applications STP-PRA 004 and 005 for petroleum production
13 licence.

1 IN WITNESS WHEREOF this Agreement has been executed by or on behalf of
2 the parties hereto the day and year first hereinbefore mentioned.

3 [Signature]

SIGNED by **THE HONOURABLE**)
COLIN JAMES BARNETT in the)
presence of:)

4 [Signature]

5 Witness:
6 Name: Nicole Henderson

EXECUTED by **BURU ENERGY**)
LIMITED ACN 130 651 437 in)
accordance with section 127 of the)
Corporations Act 2001)
(Commonwealth):)

7	[Signature]	[Signature]
	Signature of director:	Signature of director:
	Name of director: Graham Douglas	Name of director: Peter Vernon
	Riley	Jones

8 **EXECUTED** by **DIAMOND**)
RESOURCES (FITZROY) PTY LTD)
ACN 145 113 177 in accordance with)
section 127 of the *Corporations*)
Act 2001 (Commonwealth):)

9	[Signature]	[Signature]
	Signature of director:	Signature of director:
	Name of director: Masaru Saito	Name of director: Masayuki Moroi

page 87

Defined terms

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision
scheduled agreement	3
the Agreement.....	3