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2021

THE STATE OF WESTERN AUSTRALIA

AND

WOODSIDE ENERGY SCARBOROUGH PTY. LTD.

AND

BHP PETROLEUM (AUSTRALIA) PTY. LTD.

DOMESTIC GAS COMMITMENT FOR THE SCARBOROUGH PROJECT

THIS AGREEMENT is made this 23 day of November 2021

BETWEEN

THE HONOURABLE MARK McGOWAN, BA, LLB, M.L.A., Premier of the State of Western Australia, acting for and on behalf of the said State and its instrumentalities from time to time ("**State**") of the first part;

AND

WOODSIDE ENERGY SCARBOROUGH PTY. LTD. ABN 38 650 177 227 of Mia Yellagonga, 11 Mount Street, Perth, Western Australia ("**Woodside**") of the second part;

AND

BHP PETROLEUM (AUSTRALIA) PTY. LTD. ABN 39 006 923 879 of 125 St Georges Terrace, Perth, Western Australia ("**BHP**") of the third part,

(Woodside and BHP collectively being the "**Scarborough Participants**" and each a "**Scarborough Participant**").

RECITALS

- A.** The Scarborough Participants are the current holders of the Petroleum Titles listed in Schedule 1 to this Agreement ("**Identified Petroleum Titles**"), which as at the date of this Agreement comprise the Fields Area for the Scarborough Project.
- B.** The Scarborough Participants have, on or about the Date of this Agreement, entered into gas processing agreements with the T2JV Participants for access to the Pluto LNG Facilities for the processing of natural gas to be extracted from the Identified Petroleum Titles.
- C.** The Scarborough Participants wish the T2JV Participants to utilise at the Pluto LNG Facilities and the Domgas Facilities natural gas recovered from a well or wells within the Fields Area in the production for the Scarborough Participants of liquefied natural gas and Fields Area Domgas.
- D.** Under the Pluto Train 2 Deed, such utilisation of the Pluto LNG Facilities may only be undertaken if, among other things, the Scarborough Participants enter into a 'Domgas Commitment Agreement' with the State.
- E.** In this Agreement the Scarborough Participants provide to the State the 'Domgas Commitment Agreement' required by the Pluto Train 2 Deed in respect of the proposed utilisation of the Pluto LNG Facilities by the T2JV Participants referred to in Recital C.

The Parties agree as follows:

1 DEFINITIONS

The following definitions apply unless the contrary intention appears:

Affiliate means in relation to an entity, any entity which Controls, or is Controlled by, or is under common Control with, that entity and, in the case of BHP, shall be deemed to include:

- (a) BHP Group Limited;
- (b) BHP Group Plc;
- (c) any body corporate Controlled by BHP Group Plc or BHP Group Limited;
- (d) any body corporate Controlled by BHP Group Plc and BHP Group Limited taking into account the aggregate percentage interests of their respective direct or indirect shareholdings in that body corporate; or
- (e) any body corporate Controlling or Controlled by that body corporate.

Agreement means this deed including the schedules attached to this deed, as amended, assigned or novated from time to time.

Assign has the meaning given by clause 14.1.

Assigned Interest has the meaning given by clause 14.1.

Assignee has the meaning given by clause 14.1.

Authorisation means any approval, consent, exemption, licence, permit, authority or authorisation howsoever described, from or by a Government Agency.

Business Day means a day other than a Saturday, Sunday or public holiday in Western Australia.

Change in Control means circumstances where, through any merger, sale of shares or otherwise, as a single transaction or a series of related transactions, at any time, any person alone or together with any Affiliate or Affiliates ceases to or commences to, directly or indirectly, Control an entity, but a Change in Control will be deemed not to occur where:

- (a) it occurs as a result of a change or changes in ownership of the issued shares in an entity listed on the Australian Stock Exchange or the securities of any entity which are quoted for trading on any other recognised stock exchange for the public trading in securities (in each case, referred to as a “**Listed Entity**”); or
- (b) in relation to BHP only, the Change in Control:
 - (i) occurs within 5 years of the Date of this Agreement or, if requested by BHP and approved by the State in its absolute discretion, within the period from 5 years of the Date of this Agreement to 10 years of the Date of this Agreement; and
 - (ii) arises as a result of an assignment, transfer or disposal of all or substantially all of the petroleum exploration and production assets or properties in Australia or greater geographical area (which includes Australia) owned by the Listed Entity's corporate group.

Commencement Date means the date on which the last of the Conditions Precedent have been satisfied.

Condition Precedent and **Conditions Precedent** each have the meaning given in clause 3.1.

Control has the meaning given by clause 2.2 and **Controlled** has a corresponding meaning.

Date of this Agreement means the date of execution of this Agreement, as noted on the first page.

Defaulting Scarborough Participant has the meaning given by clause 13.1.

Domgas Facilities means the domestic gas plant to be constructed by the T2JV Participants on the Pluto Site.

Energy Value means in relation to a quantity of petroleum product the thermal energy value equivalent of that quantity in joules calculated in accordance with good industry practice.

Fields Area means, at any time during the Term, the area comprising all of the areas then the subject of the Identified Petroleum Titles and all of the areas then the subject of Petroleum Titles derived from the whole or any part of an Identified Petroleum Title.

Fields Area Domgas means natural gas and liquefied natural gas produced for delivery and use in the said State produced by the Scarborough Participants from natural gas recovered after the Commencement Date from a well or wells in the Fields Area, but it does not include:

- (a) natural gas and liquefied natural gas for the operation of, or use in the operation of, the Pluto LNG Facilities, the Domgas Facilities or any Infrastructure;
- (b) natural gas and liquefied natural gas sold or delivered or to be sold or delivered as the case may be to one or more third parties for the purpose of enabling a Scarborough Participant or a third party to meet its 'domgas commitment' to the State (other than the Fields Area Domgas Commitment provided pursuant to this Agreement);
- (c) natural gas processed or delivered or to be processed or delivered as the case may be for sale, use or supply overseas or outside of Western Australia, whether or not as liquefied natural gas;
- (d) natural gas sold or delivered or to be sold or delivered as the case may be for the purpose of producing liquefied natural gas for sale, use or supply overseas or outside of Western Australia; and
- (e) natural gas and liquefied natural gas sold or delivered or to be sold or delivered as the case may be to any Affiliate of any Scarborough Participant for any purpose referred to in paragraphs (a), (b), (c), or (d) above,

and in the case of any ambiguity in the application of paragraphs (a) to (e) above to particular circumstances, natural gas agreed by the Parties in writing to comprise Fields Area Domgas for the purposes of this Agreement or to be excluded by one or more of those paragraphs from the definition of Fields Area Domgas.

Fields Area Domgas Commitment means the Scarborough Participants' commitments in respect of reservation, infrastructure, marketing and reporting as set out in clauses 6, 7, 8 and 9 of this Agreement.

Fields Area New Domgas means at any time after the Commencement Date, the quantity of Fields Area Domgas which has an Energy Value equivalent to at least the Relevant Percentage of the Energy Value of the aggregate of:

- (a) the T2 Fields Area Export Gas; and
- (b) the T2 Anticipated LNG Production,

as reduced by the applicable quantity of Fields Area Domgas delivered by the Scarborough Participants in compliance with the Fields Area Domgas Commitment at the date of calculation.

Governmental Agency means:

- (a) any government;
- (b) any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity; or
- (c) any Minister of the Crown.

Identified Petroleum Titles has the meaning given in Recital A and includes any additional Petroleum Title consented to by the State under clause 12.

Individual Fields Area New Domgas means at any time after the Commencement Date and for the relevant Scarborough Participant, the quantity of Fields Area Domgas which has an Energy Value equivalent to at least the Relevant Percentage of the Energy Value of the aggregate of:

- (a) the relevant Scarborough Participant's Participating Interest share of the T2 Fields Area Export Gas; and
- (b) the relevant Scarborough Participant's Participating Interest share of the T2 Anticipated LNG Production,

as reduced by the applicable quantity of Fields Area Domgas delivered by the relevant Scarborough Participant in compliance with the Fields Area Domgas Commitment at the date of calculation.

Infrastructure means all upstream and downstream plant, equipment, fixtures, facilities and machinery required by the Scarborough Participants from time to time to extract, transport, process and deliver natural gas from a well or wells in the Fields Area to third parties for use in the said State, including the Domgas Facilities and any offshore and onshore pipelines and flowlines, processing plant and equipment, storage and handling facilities, which are utilised as part of the Scarborough Project, and whether owned by or on behalf of the Scarborough Participants or their respective Affiliates, or any third party.

LNG Sales Contract means an agreement or arrangement between a Scarborough Participant and one or more third parties for the use, supply or sale of liquefied natural gas outside of Western Australia, produced from natural gas recovered from a well or wells in the Fields Area and processed by or on behalf of the T2JV Participants at the Pluto LNG Facilities which has been entered into and is unconditional at the relevant date, but does not include any agreement or arrangement where the third party counterparty is a liquefied natural gas marketing company for the relevant Scarborough Participant's corporate group except to the extent such liquefied natural gas marketing company has entered into a use, supply or sale commitment with a third party customer in respect of such liquefied natural gas which is unconditional at the relevant date.

Minister means the Minister for State Development or such other Minister for the time being designated in a notice from the State to the Scarborough Participants and includes the successors in office of the Minister.

Notified Infrastructure means the Infrastructure identified in Schedule 2, which at the Date of this Agreement comprises all Infrastructure required by the Scarborough Participants to meet the Fields Area Domgas Commitment, as updated in accordance with the notification process set out in clause 5.

Operational means that the relevant Infrastructure is in operation and producing or processing (as applicable) natural gas for delivery and use in the said State (subject to interruptions in operation due to planned maintenance, tie-ins and other capital works

and outages from unplanned breakdowns).

Participating Interest means, as to any Scarborough Participant, the undivided interest of such Scarborough Participant (expressed as a percentage of the total interests of all Scarborough Participants) in the rights and obligations derived from the Scarborough Participants' interest in the Identified Petroleum Titles and the Scarborough JVOA from time to time, which at the Date of this Agreement, are:

- (a) Woodside: 73.5%; and
- (b) BHP: 26.5%.

Party means a party to this Agreement and **Parties** means the Parties to this Agreement.

Petroleum Titles means exploration permits, production licences, retention leases or other petroleum rights issued or held under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth).

Pluto LNG Facilities means any LNG liquefaction units, other processing facilities and any other ancillary infrastructure necessary for the production, transportation and delivery of liquefied natural gas from the Fields Area, located on the Pluto Site, including Pluto Train 2.

Pluto Site means:

- (a) Lot 572 on Deposited Plan 28209, comprising the whole of Certificate of Title Volume 2671, Folio 979;
- (b) Lot 384 on Deposited Plan 220146, comprising the whole of Certificate of Title Volume 2671, Folio 981;
- (c) Lot 574 on Deposited Plan 28209, comprising the whole of Certificate of Title Volume 2671, Folio 980; and
- (d) Lot 573 on Deposited Plan 28209, comprising the whole of Certificate of Title Volume 2676, Folio 184.

Pluto Train 2 Deed means the deed titled Pluto Train 2 – Infrastructure and Domestic Gas Deed to be entered by the State, WBT2A and WBT2B on or about the Date of this Agreement.

Pluto Train 2 Joint Venture means the joint venture established under the Joint Operating Agreement – Burrup Train 2 Joint Venture dated 21 November 2018, as may be amended, supplemented or replaced from time to time, and to which the current parties are, as at the Date of this Agreement, WB (in its capacity as manager of the Pluto Train 2 Joint Venture), WBT2A and WBT2B.

Proved plus Probable Reserves means, at the relevant date, those quantities of natural gas which are classified at that date by a Scarborough Participant in accordance with good industry practice as the sum of 'Proved plus Probable Reserves', as defined in the Petroleum Resources Management System approved by the Board of Directors of the Society of Petroleum Engineers (SPE) and the Executive Committee of the World Petroleum Council, June 2018 or as amended by those entities from time to time.

Proved Reserves means, at the relevant date, those quantities of natural gas which are classified at that date by a Scarborough Participant in accordance with good industry practice as 'Proved Reserves', as defined in the Petroleum Resources Management System approved by the Board of Directors of the Society of Petroleum

Engineers (SPE) and the Executive Committee of the World Petroleum Council, June 2018 or as amended by those entities from time to time.

Relevant Percentage means:

- (a) subject to paragraph (b), 15%; or
- (b) such lesser percentage as the State may approve in accordance with clause 26.

Reporting Period has the meaning given by clause 9.1.

said State means the State of Western Australia.

Scarborough JVOA means the Scarborough Main Title Joint Venture Operating Agreement dated 17 June 2014, which establishes or governs the Scarborough Participants' Participating Interests in the Identified Petroleum Titles, as may be amended, supplemented or replaced from time to time, including as amended on 25 February 2020 and 8 July 2021, and to which the current parties are, as at the Date of this Agreement, WEL (in its capacity as operator of the Scarborough Project), Woodside and BHP.

Scarborough Project means the project to produce natural gas from the Identified Petroleum Titles.

T2 Anticipated LNG Production means at the relevant time, the aggregate quantity of liquefied natural gas the Scarborough Participants forecast to produce for use outside of Western Australia from natural gas recovered from a well or wells in the Fields Area and to be processed by or on behalf of the T2JV Participants at the Pluto LNG Facilities, as identified in the Scarborough Participants' T2 Planned LNG Profile.

T2 Fields Area Export Gas means, at any time after the Commencement Date, the Scarborough Participants' aggregate quantity of liquefied natural gas produced for use outside of Western Australia from natural gas recovered from a well or wells in the Fields Area and processed by or on behalf of the T2JV Participants at the Pluto LNG Facilities.

T2 Planned LNG Profile means the Scarborough Participants' planned liquefied natural gas production profile for the Scarborough Project for processing by or on behalf of the T2JV Participants as set out in Schedule 3, which has been developed in accordance with good industry practice and:

- (a) represents the Scarborough Participants' bona fide estimate of the aggregate quantity of natural gas to be processed for use outside of Western Australia on an annual basis during the Term, by or on behalf of the T2JV Participants at the Pluto LNG Facilities, having regard to the Proved plus Probable Reserves located within the Fields Area, the Scarborough Participants' obligation to reserve Fields Area New Domgas in accordance with clause 6 and the anticipated term of the Scarborough Project; and
- (b) assumes that all necessary Authorisations required to process such gas at the Pluto LNG Facilities have or will be obtained and / or maintained for the duration of the Term,

as updated from time to time pursuant to clauses 5, 9 and 14.

T2 Processing Agreement has the meaning given by clause 5.1.

T2JV Participants means the participants from time to time in the Pluto Train 2 Joint Venture, which are, as at the Date of this Agreement, WBT2A and WBT2B.

Term has the meaning given in clause 22.1.

Total LNG Sales Contract Volume means the aggregate volume of liquefied natural gas committed under the Defaulting Scarborough Participant(s)' LNG Sales Contracts for a 12 month period commencing:

- (a) in respect of the first year of a suspension, on the date of suspension under clause 13; and
- (b) in each subsequent year of suspension (if any), on the anniversary of such suspension.

WB means Woodside Burrup Pty Ltd (ACN 120 237 416).

WBT2A means Woodside Burrup Train 2 A Pty Ltd (ACN 629 536 269).

WBT2B means Woodside Burrup Train 2 B Pty Ltd (ACN 629 536 241).

WEL means Woodside Energy Ltd (ACN 005 482 986).

2 INTERPRETATION

2.1 In this Agreement, unless the context otherwise requires:

- (a) headings or subheadings are inserted for guidance only and do not govern the meaning or construction of this Agreement or of any provision contained in this Agreement;
- (b) words expressed in the singular include the plural and vice versa;
- (c) words expressed in one gender include the other genders;
- (d) a reference to a person includes:
 - (i) reference to a natural person, firm, any company, partnership, joint venture, association, corporation or other body corporate or Governmental Agency; and
 - (ii) reference to the successors and permitted assigns of any of the entities referred to in subclause (i);
- (e) a reference to any thing (including any amount) includes a part of that thing but is not to be taken as implying that performance of part of an obligation is the performance of the whole;
- (f) a reference to a clause, schedule or annexure is a reference to a clause of or schedule or annexure to this Agreement;
- (g) where the day on or by which a thing is required to be done is not a Business Day that thing must be done on or by the next Business Day;
- (h) a covenant or agreement by more than one person binds, and is enforceable against, those persons jointly and each of them severally;
- (i) no rules of construction apply to the disadvantage of a Party because that Party was responsible for the drafting of this Agreement or of any of the provisions of this Agreement;
- (j) a reference to a statute, code, regulation, order, ordinance, by-law or other legislation or subordinated or delegated legislation or provision of it includes any amendment, substitution, re-enactment or consolidation of it;
- (k) a reference to a statute includes every regulation, order, ordinance, by law, subordinated or delegated legislation and proclamation made or issued under that statute;

- (l) where a word or phrase is given a defined meaning in this Agreement, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (m) a reference to any document, instrument or agreement, including this Agreement, includes a reference to that document, instrument or agreement as amended, assigned, novated, supplemented, varied or replaced from time to time;
- (n) "including" means "including, but not limited to"; and
- (o) a reference to "Infrastructure" or "Notified Infrastructure" within this Agreement will, for the avoidance of doubt, not extend to asset ownership of such Infrastructure or Notified Infrastructure (as the case may be) if contractual rights exist for the use of such Infrastructure or Notified Infrastructure and those contractual rights are being utilised by the Scarborough Participants in the performance of their obligations under this Agreement.

2.2 An entity Controls another entity if:

- (a) where the second-named entity has a share capital, the first-named entity (alone or with one or more Affiliates) has the power to vote in relation to at least 50% of the shares in the second-named entity at a meeting to approve the appointment or removal of a director;
- (b) where the second-named entity does not have a share capital, the first-named entity (alone or with one or more Affiliates) has the power to appoint or remove a majority of the persons who make or participate in making decisions of the second-named entity that affect the whole or a substantial part of the second-named entity's business or financial affairs that significantly affect its financial standing; or
- (c) where the first-named entity (alone or with one or more Affiliates) has the power to control the composition of the board or groups of persons who together can make the decisions described in paragraph (b) above.

2.3 References in this Agreement to natural gas being processed "by or on behalf of the T2JV Participants" refers to natural gas being processed, or to be processed, by the T2JV Participants directly and/or through the T2JV Participants' arrangements to utilise the infrastructure and/or services of any owner(s) of any other Pluto Facility.

3 NATURE OF THIS AGREEMENT AND CONDITIONS PRECEDENT

3.1 This Agreement (other than clauses 1, 2, 3, 4, 5, 15, 16, 18, 19, 20, 25, 27, 28, 29, 30 and 31) is not binding on the Parties and is of no force or effect until the Scarborough Participants notify the State that:

- (a) the Scarborough Participants have taken an unconditional positive final investment decision to proceed with the development of the Identified Petroleum Titles via utilisation of the Pluto LNG Facilities; and
- (b) the T2JV Participants have taken an unconditional positive final investment decision to proceed with the development of a second LNG train at the Pluto Site ("**Pluto Train 2**"),

(each a "**Condition Precedent**" and together the "**Conditions Precedent**").

- 3.2 The Conditions Precedent are for the benefit of the State and the Scarborough Participants and may only be waived by written agreement between the Parties.
- 3.3 If the Conditions Precedent are not satisfied on or before the date being 12 months after the Date of this Agreement or such longer period as the Parties may agree in writing, then:
- (a) the Scarborough Participants or the State may, by giving notice to the other Parties in writing terminate this Agreement; and
 - (b) following termination, the Parties' rights and obligations to each other are discharged except for the enforcement of any right or claim which has arisen under the clauses referred to in clause 3.1.
- 3.4 Subject to clause 3.3(b), no Party will be liable in any way for any loss or claim brought against, incurred or suffered by, any other Party in connection with or arising out of the termination of this Agreement under clause 3.3.

4 RELATIONSHIP OF THE PARTIES AND STRUCTURE OF AGREEMENT

- 4.1 The rights, obligations and liabilities of each Scarborough Participant under clauses 8 (Marketing) and 9.1 (Reporting) are several and individual obligations of each of the Scarborough Participants in proportion to their respective Participating Interests, but may nevertheless be discharged collectively.
- 4.2 The Scarborough Participants must notify the State of any change in the Scarborough Participants' Participating Interests within 20 Business Days of such change occurring.
- 4.3 Each Party intends by this Agreement not to create, and this Agreement is not to be construed as creating, between the Parties, a partnership, agency, joint venture or association or any fiduciary obligations whatsoever.
- 4.4 The Parties recognise that the Minister will be responsible for the administration of this Agreement on behalf of the State.

5 NATURAL GAS PROCESSING ARRANGEMENTS

- 5.1 Within 30 days of the Date of this Agreement, if they have not already done so, the Scarborough Participants shall provide the State with a summary of their intended arrangements with the Pluto Train 2 Joint Venture during the Term for the processing of natural gas to be recovered from a well or wells in the Fields Area through the Pluto LNG Facilities ("**T2 Processing Agreement**") and shall provide the State with an update to this summary within 30 days of any material change to those arrangements.
- 5.2 The Scarborough Participants must, prior to the Commencement Date, notify the State of any change or proposed change to the Notified Infrastructure to be used or proposed to be used for the purposes of processing natural gas recovered from a well or wells in the Fields Area to meet the Fields Area Domgas Commitment and if requested by the State, consult with the State in relation to the change or proposed change. The notice referred to in this clause 5.2 must:
- (a) include a high level description of the change or proposed change to the Notified Infrastructure;
 - (b) outline the reasons for the change or proposed change to the Notified Infrastructure; and

- (c) demonstrate how the Notified Infrastructure (as modified) will be sufficient to enable the Scarborough Participants to meet their Fields Area Domgas Commitment.
- 5.3 The Scarborough Participants must consider any comments provided by the State under clause 5.2 and act reasonably in determining whether to take into account any such comments before implementing the change or proposed change to the Notified Infrastructure.
- 5.4 The Scarborough Participants must provide the State with a T2 Planned LNG Profile (according with the requirements of that defined term) within 30 days of the Commencement Date.
- 5.5 The Scarborough Participants acknowledge that:
 - (a) nothing in this Agreement authorises the Scarborough Participants to send natural gas from the Identified Petroleum Titles to the Pluto Site for processing under the T2 Processing Agreement;
 - (b) the Scarborough Participants must not send such gas to the Pluto Site for processing unless all necessary Authorisations, including, without limitation, all Authorisations required to permit the processing of such natural gas under the T2 Processing Agreement, have been obtained and are in full force and effect at the relevant time; and
 - (c) the State makes no representation in this Agreement as to the validity or duration of any Authorisations which have been, or may be required to be, obtained in connection with the Scarborough Project and/or the processing of natural gas from the Identified Petroleum Titles at the Pluto Site.

6 RESERVATION COMMITMENT

During the Term, the Scarborough Participants must reserve or procure the reservation (as the case may be) of a quantity of natural gas to be recovered from a well or wells within the Fields Area which is capable of commercial development and sufficient for the Scarborough Participants to meet the Fields Area Domgas Commitment.

7 INFRASTRUCTURE COMMITMENT

During the Term, the Scarborough Participants must:

- (a) apply, or procure the application (including through an ongoing contractual right to natural gas processing services) as the case may be of, available proven technology in developing, or obtaining access to as the case may be, Notified Infrastructure and any other Infrastructure required from time to time for the purpose of the Scarborough Participants meeting their Fields Area Domgas Commitment and regardless of whether or not this may require the refurbishment of existing facilities, the construction of new facilities or procuring access to other facilities;
- (b) maintain, or procure the maintenance as the case may be of, Notified Infrastructure and any other Infrastructure required from time to time in an Operational state for the times and to the extent necessary to meet the Fields Area Domgas Commitment during the currency of this Agreement after the Commencement Date; and
- (c) maintain, or procure the maintenance (including through an ongoing contractual right to natural gas processing services) as the case may be of, access to sufficient capacity in Notified Infrastructure and any other

Infrastructure required from time to time to enable the Scarborough Participants to meet the Fields Area Domgas Commitment in accordance with good industry practice (exercising the degree of skill, prudence and foresight which would reasonably be exercised by a skilled and experienced person engaged in the same type of practice) in order to ensure the production and delivery of Fields Area Domgas to the domestic market in the said State in compliance with the Fields Area Domgas Commitment,

where the Relevant Percentage of the T2 Planned LNG Profile at the time will guide the rate at which the Scarborough Participants must undertake the obligations in this clause 7 and for the avoidance of doubt, the Parties agree that the T2 Planned LNG Profile is not intended to set a Fields Area Domgas production or supply obligation.

8 MARKETING COMMITMENT

- 8.1 During the Term, each Scarborough Participant must:
- (a) actively and diligently undertake ongoing marketing (whether collectively or otherwise) of its Individual Fields Area New Domgas for sale to a range of buyers in the said State with a view to achieving a reasonably stable and regular supply profile for Fields Area Domgas over the Term which reflects the Relevant Percentage of the T2 Planned LNG Profile at the relevant time, and avoiding any unreasonable accumulation of its Individual Fields Area New Domgas (for the avoidance of doubt the T2 Planned LNG Profile will guide the rate at which a Scarborough Participant must discharge its ongoing marketing obligations in relation to its Individual Fields Area New Domgas and is not intended to set a Fields Area Domgas production or supply obligation);
 - (b) discharge its ongoing marketing obligations (as specified in clause 8.1(a)) in good faith, actively and diligently (exercising the degree of skill, prudence and foresight which would reasonably be exercised by a skilled and experienced person engaged in the same type of undertaking) having regard to the domestic gas market in the said State including current and prospective buyers, and the Scarborough Participant's existing and anticipated unconditional Fields Area Domgas supply contracts, including, without limitation, through employing staff to market Fields Area Domgas, engaging regularly with potential buyers of Fields Area Domgas in the said State, engaging in or undertaking expression of interest or tender processes (where appropriate) and assessing demand for Fields Area Domgas through activities such as market research and discussions with potential buyers; and
 - (c) negotiate in good faith with any bona fide buyer of its Individual Fields Area New Domgas as to the price and terms of supply of its Individual Fields Area New Domgas available for sale.
- 8.2 Without limiting clause 8.1, each Scarborough Participant may meet its marketing obligations by contracting to a different profile as agreed with their customers than as implied by the marketing profile referred to in clause 8.1(a) above.
- 8.3 In considering whether a Scarborough Participant has complied with its obligations pursuant to clause 8.1 (including its obligation pursuant to 8.1(b) to discharge its marketing obligation in good faith), the State may have regard to, among other things,

the extent to which the relevant Scarborough Participant is able to produce and deliver Fields Area Domgas.

9 REPORTING

- 9.1 During the Term, the Scarborough Participants must, subject to the following proviso, each prepare and submit to the Minister on an annual and confidential basis, by 31 March of each year, a report ("**Fields Area Domgas Report**") in the form set out in Schedule 4 or such other form as reasonably required by the Minister from time to time to enable the State to assess whether the Scarborough Participants have complied with the Fields Area Domgas Commitment, which demonstrates how each of the Scarborough Participants have complied with the Fields Area Domgas Commitment during the previous calendar year (or, in the case of the first report, during the period commencing on the Commencement Date and ending on the last day of the calendar year) ("**Reporting Period**") and contains:
- (a) in relation to liquefied natural gas sold or supplied overseas or outside of Western Australia during the Reporting Period (and in the case of the first report including liquefied natural gas sold prior to the Commencement Date) by the Scarborough Participant submitting the report, information about the date of the relevant sale or supply contracts, the quantities of liquefied natural gas sold or supplied under such contracts and the dates of sale or supply;
 - (b) in relation to Fields Area Domgas sold or delivered during the previous Reporting Period (and in the case of the first report including Fields Area Domgas sold prior to the Commencement Date) into the domestic market of the said State in compliance with the Fields Area Domgas Commitment by the Scarborough Participant submitting the report, information about the date of the relevant sale or delivery contracts, the quantities of Fields Area Domgas so sold or delivered under such contracts and the dates of sale or delivery;
 - (c) a revised T2 Planned LNG Profile (according with the requirements of that defined term) which has been updated to reflect T2 Anticipated LNG Production at the end of the Reporting Period;
 - (d) a report which identifies, as against the information provided in respect of the Notified Infrastructure (including pursuant to clause 5.2, if applicable) the Infrastructure being utilised by the Scarborough Participants to meet their Fields Area Domgas Commitment;
 - (e) information demonstrating that the Notified Infrastructure and any other Infrastructure (if applicable) required from time to time to enable the Scarborough Participants to meet their Fields Area Domgas Commitment was maintained in an Operational state during the Reporting Period and detailed information on the Scarborough Joint Venturers' strategies for maintaining, or procuring the maintenance of, as the case may be, such Infrastructure in an Operational state, including, information demonstrating the capacity in such Notified Infrastructure and any other Infrastructure required from time to time which was available to the Scarborough Participants during the Reporting Period and the capacity in such Infrastructure that will be available to the Scarborough Participants in the next Reporting Period; and
 - (f) information demonstrating that the Scarborough Participant submitting the report has complied with its reservation of natural gas obligation in clause 6

and marketing obligations in clause 8 during the Reporting Period and will continue to comply with such obligations during the Term,

where each Scarborough Participant must ensure the information in the report is accurate and complete, and when required by the Minister, consult with the Minister in regard to any report or reports submitted under this clause 9.1, provided that the Scarborough Participants may submit a combined report in relation to their obligations under clauses 6, 7 and 8 in their absolute discretion.

9.2 The Parties acknowledge and agree that:

- (a) each Fields Area Domgas Report provided by a Scarborough Participant is confidential to that Scarborough Participant and the State must not provide that report to any other Scarborough Participant without the prior written consent of the first-mentioned Scarborough Participant;
- (b) the Scarborough Participants will not be required to report under this clause at any time:
 - (i) the price of any contract with a customer or potential customer for the sale of natural gas (in any form including as Fields Area Domgas or liquefied natural gas) (but, for the avoidance of doubt, a Scarborough Participant may be required to report its view of the indicative market price range for Fields Area Domgas, where such indicative range does not disclose any price information that is specific to a customer or potential customer, or that is subject to a tender process or other confidentiality obligation or restriction); or
 - (ii) the name or identity of any customer or potential customer to whom the Scarborough Participant has sold or supplied natural gas or may intend to sell to or supply natural gas (in any form including as Fields Area Domgas or liquefied natural gas); and
- (c) the Scarborough Participants will not be required to include in any report submitted under this clause 9, information that the Scarborough Participant is prohibited from providing pursuant to a written law or an order of a court of competent jurisdiction.

10 EXPERT

- 10.1 The State may at any time appoint a person agreed with the Scarborough Participants or the relevant Scarborough Participant, as the case may be, (who is both independent of the State and of the Scarborough Participants and does not have a conflict of interest with other companies involved in the domestic market in the said State) (“Expert”) to advise the State on the extent to which the Scarborough Participant(s) have performed their or its obligations under clauses 6, 7, 8 and 9. The State must give the relevant Scarborough Participant(s) notice setting out in reasonable detail the matters that the State wishes to refer to the Expert for opinion.
- 10.2 If the State and the relevant Scarborough Participant(s) cannot agree on an Expert under clause 10.1, then the Expert will be appointed by the President of the Resolution Institute Australia, at the request of the State.
- 10.3 The reasonable and verifiable costs of the Expert (including any ancillary reports, analysis or expertise reasonably required by the Expert) will, having regard to the Expert's usual terms of engagement, and subject to an agreed budget, be paid (subject to clause 10.8) by the relevant Scarborough Participant(s). The State must submit a budget for the Expert’s costs for approval by the relevant Scarborough Participant(s), which approval must not be unreasonably withheld or delayed.

- 10.4 Subject to the Expert executing a confidentiality deed in a form acceptable to the State and the relevant Scarborough Participant(s) (both, acting reasonably), the relevant Scarborough Participant(s) will:
- (a) provide all information that the Expert may require in connection with its appointment under this Agreement that the Expert has requested in writing, which may include:
 - (i) prices and terms of any contract with any customer or potential customer for the sale of natural gas;
 - (ii) the name or identity of any customer or potential customer to whom the Scarborough Participant has sold or supplied natural gas or may intend to sell or supply natural gas; and
 - (iii) information relevant to the performance of the Fields Area Domgas Commitment, including information relating to the Fields Area reserves, the operation of relevant facilities and the Scarborough Participants' respective marketing strategies; and
 - (b) where requested by the Expert, acting reasonably, meet and consult with the Expert in relation to the matters referred to the Expert by the State for opinion.
- 10.5 The Scarborough Participants agree that they will not require the Expert to accept confidentiality restrictions under clause 10.4 that would prohibit or restrict:
- (a) the Expert properly reporting to the State under clause 10.1; or
 - (b) the State from reasonably forming a view on the extent to which the relevant Scarborough Participant(s) has performed its or their obligations under clauses 6, 7, 8 and 9.
- 10.6 Notwithstanding anything in this clause 10, the Expert must not disclose to the State the identity of the Scarborough Participant(s) customers or potential customers and pricing information or sales volumes or terms, except where that information is disclosed in a format from which it is not possible to deduce pricing information or sales volumes or terms in relation to an individual customer or potential customer (with such format to be agreed by the Expert and the Scarborough Participant(s) acting reasonably), which the Parties acknowledge may require disclosure of information on an aggregated basis.
- 10.7 After receiving any final opinion or report (but not in the case of any draft opinion or report) from the Expert:
- (a) the State must promptly make a copy of that opinion or report available to the relevant Scarborough Participant(s);
 - (b) the relevant Scarborough Participant(s) may liaise with the Expert in relation to the Expert's findings and the general assumptions and the categories of information which were made available to the Expert;
 - (c) if requested by the State, the relevant Scarborough Participant(s) must liaise with the State and the Expert in relation to the report; and
 - (d) both the State and any relevant Scarborough Participant(s) may require the Expert to rectify any factual inaccuracies in the opinion or report as appropriate,
- provided always that the State may, subject to the terms of the confidentiality deed agreed under clause 10.4, liaise with the Expert in relation to the Expert's findings

and the general assumptions and the categories of information which were made available to the Expert at any time, including upon receipt of a draft opinion or report.

- 10.8 There is no limit on the number of times that the State may use the Expert process in this clause 10, including if the State wishes to obtain a further opinion on any final Expert report or opinion received under this clause 10, provided that if the State engages an Expert:
- (a) more than once in any 12 month period in relation to the same factual matter; or
 - (b) to provide a further opinion on any final Expert report,
- then:
- (c) clause 10.3 will not apply and the costs of the Expert shall be paid by the State;
 - (d) notwithstanding clause 10.1, the State may appoint the Expert in its absolute discretion, subject to such Expert being both independent of the State and of the Scarborough Participants and not having a conflict of interest with other companies involved in the domestic market in the said State); and
 - (e) the remainder of this clause 10 applies to the appointment of such Expert.

11 OFFSET

- 11.1 Each Scarborough Participant or the Scarborough Participants collectively ("**offset party**") may make a request of the State to offset all or part of its or their Fields Area Domgas Commitment by offering commitments in respect of natural gas or other energy sources and capacity from alternative sources and facilities. Consideration of any such request will be at the discretion of the State.
- 11.2 The State may, in response to a request from an offset party, request that the offset party submit a detailed application for the offset commitments for the State's approval, which must provide sufficient details of the proposed offset commitment.
- 11.3 Consideration of a clause 11.1 request or a clause 11.2 application will be at the absolute discretion of the State.
- 11.4 The State may approve a proposed domgas offset commitment in its absolute discretion and subject to any terms and conditions that the State thinks fit, including a requirement to vary this Agreement.
- 11.5 If the offset party accepts, by notice to the State, the terms and conditions (if any) of the State's approved domgas offset commitment:
- (a) the offset party must do, and procure, everything necessary to implement the approved domgas offset commitment; and
 - (b) once the offset party has implemented the approved domgas offset commitment, the Fields Area Domgas Commitment of the offset party will be reduced on a pro rata basis to the extent the approved offset commitment has been implemented, in accordance with the terms and conditions of the approved domgas offset commitment.

12 ADDITIONAL IDENTIFIED PETROLEUM TITLES

- 12.1 The Scarborough Participants may request the consent of the State to include additional Petroleum Titles as Identified Petroleum Titles for the Scarborough Project for the purposes of this Agreement.

- 12.2 Subject to clause 12.3:
- (a) consideration of a clause 12.1 request will be at the absolute discretion of the State; and
 - (b) the State may approve a clause 12.1 request in its absolute discretion and subject to any terms and conditions that the State thinks fit, including a requirement to vary this Agreement.

- 12.3 The State must give its consent under clause 12.1 to add the Thebe and Jupiter titles (being WA-61-R and WA-63-R and any production licences granted in respect of those titles) if at the time of the request the Scarborough Participants are:
- (a) in compliance with their Fields Area Domgas Commitment;
 - (b) the sole owners of the relevant titles in the same Participating Interests applicable to the Identified Petroleum Titles subject to this Agreement;
 - (c) able to continue to comply with their Fields Area Domgas Commitment (as adjusted to take into account the new titles), or will be able to comply with such commitment following the construction of new Infrastructure relating to the new titles, over the remaining Term of this Agreement, including in respect of access to and maintenance of Infrastructure; and
 - (d) have made a corresponding request to the Pluto Train 2 Joint Venture to incorporate those titles into the processing arrangements referred to in clause 5 which the Pluto Train 2 Joint Venture is required to accept pursuant to the terms of such arrangements,

provided always that the Scarborough Participants acknowledge and agree that gas to be recovered from any additional Petroleum Title consented to under this clause 12 is not able to be counted against their reservation commitment under clause 6 until such time as an unconditional positive final investment decision is taken to proceed with the development of the title.

- 12.4 The Scarborough Participants must provide the State with sufficient information to assess any request for consent pursuant to clause 12.1, including all information required to assess whether the Scarborough Participants have satisfied the requirements set out in clause 12.3.

13 DEFAULT

- 13.1 If the State considers that one or more Scarborough Participants ("**Defaulting Scarborough Participant(s)**") has defaulted in the due performance and observance of its or their Fields Area Domgas Commitment and such default is not remedied (including by failing to commence implementing to the State's reasonable satisfaction, a cure plan approved by the State in its absolute discretion) within a period of 180 days after notice is given by the State, or if the default is referred to arbitration then within the period mentioned in clause 13.5, the State may by notice to the Defaulting Scarborough Participant(s) suspend (such suspension to take effect upon the giving of the notice in accordance with clause 15) the Defaulting Scarborough Participant's marketing for use, supply or sale overseas of the volume of liquefied natural gas which at the date of such notice has not yet been committed to be supplied or sold under a LNG Sales Contract, to the intent that until the suspension is lifted as referred to in clause 13.6, the Defaulting Scarborough Participant(s) may not themselves or through any other person enter into any arrangements for the use, supply or sale of any volume quantity of liquefied natural gas from the Identified Petroleum Titles to be processed at the Pluto LNG Facilities in excess of the Total Annual LNG Sales Contract Volume in any year.

- 13.2 If the actions of all or less than all of the Scarborough Participants result in a default in the performance of a joint and several obligation, then all, but not less than all, of the Scarborough Participants may be suspended under this clause 13.
- 13.3 Within 10 Business Days of a notice to suspend being issued under clause 13.1, the Defaulting Scarborough Participant(s) shall notify the State of the applicable Total LNG Sales Contract Volume for the first year of suspension and shall provide a profile which identifies the Total LNG Sales Contract Volume for each subsequent year of the Term.
- 13.4 The notice to be given by the State under clause 13.1 shall specify the nature of the default so entitling the State to, if not remedied, exercise the right to suspend as referred to in clause 13.1.
- 13.5 The Defaulting Scarborough Participant(s) shall comply with any arbitration award within a reasonable time to be fixed by the arbitration award provided that if the question is decided against them and the arbitrator finds that there was a bona fide dispute and they were not dilatory in pursuing the arbitration, the time for compliance with the arbitration award shall not be less than 90 days from the date of such award.
- 13.6 Where there has been a suspension under clause 13.1, the Minister will lift the suspension when the Minister is satisfied that the Defaulting Scarborough Participant(s) has remedied the default or implemented a cure plan (where such cure plan has been approved by the State in its absolute discretion) to remedy the default.
- 13.7 If the Defaulting Scarborough Participant(s) contests the alleged default referred to in clause 13.1 or the State's decision under clause 13.6, it or they shall within 90 days after notice is given by the Minister as provided in clause 13.4 or the date the Scarborough Participant(s) believe the Minister should have lifted the suspension in accordance with clause 13.6, refer the matter to arbitration.

14 ASSIGNMENT

- 14.1 Subject to the provisions of this clause 14, a Scarborough Participant may at any time assign, transfer, or dispose of ("**Assign**") to any person ("**Assignee**") the whole or any part of its rights and obligations under this Agreement ("**Assigned Interest**"), subject to:
- (a) the Scarborough Participant, in conjunction with such Assignment, Assigning a corresponding interest in:
 - (i) the Identified Petroleum Titles;
 - (ii) the Scarborough JVOA;
 - (iii) if the State has consented to include any additional Petroleum Title(s) as Identified Petroleum Title(s) pursuant to clause 12, any agreement which establishes or governs the Scarborough Participants' Participating Interests in such Petroleum Title(s); and
 - (iv) the Notified Infrastructure or other Infrastructure or its rights to access such Notified Infrastructure or other Infrastructure required from time to time, including any agreement between the assigning Scarborough Participant and the T2JV Participants, establishing the assigning Scarborough Participant's rights to receive natural gas processing services,to the same Assignee;
 - (b) the Assignee becoming a registered holder of the Identified Petroleum Titles;

- (c) the Scarborough Participants providing the State a revised T2 Planned LNG Profile (according with the requirements of that defined term);
- (d) in respect of the Assigned Interest, the Scarborough Participant, the Assignee and the State executing a deed of covenant in a form to be approved by the State (such approval not to be unreasonably withheld):
 - (i) in which the Assignee assumes the Assigned Interest and agrees to comply with, observe and perform the provisions under this Agreement on the part of the assigning Scarborough Participant to be complied with, observed or performed in regard to the matter or matters the subject of such Assignment;
 - (ii) which includes a representation from the assigning Scarborough Participant and the Assignee that the Assignment (including any aspect of the transaction giving rise to the Assignment) does not prejudice or undermine the State's rights under this Agreement or impact the State's ability to enforce this Agreement; and
 - (iii) which includes a release in favour of the assigning Scarborough Participant from the State in respect of the Assigned Interest to the extent assumed by the Assignee (save in the case where the Assignee of the Assigned Interest is an Affiliate of the Scarborough Participant); and
- (e) the assigning Scarborough Participant obtaining the prior written consent of the State to the proposed Assignment, provided that a Scarborough Participant shall not require the prior written consent of the State in respect of an Assignment where the Assignee of the Assigned Interest is:
 - (i) an Affiliate of the Scarborough Participant; or
 - (ii) another Scarborough Participant.

14.2 For the purposes of this clause 14:

- (a) a Change in Control of a Scarborough Participant is deemed to be an Assignment; and
- (b) the enforcement or foreclosure of any mortgage, charge, lien or other security interest that results in any person not already party to this Agreement being or becoming an owner or registered titleholder of any interest in any Identified Petroleum Title is deemed to be an Assignment.

14.3 The consent of the State under clause 14.1(e) must not be unreasonably delayed, withheld or conditioned. It will only be reasonable for the State to delay or withhold its consent to a request to an Assignment pursuant to clause 14.1(e) if:

- (a) the assigning Scarborough Participant is not in compliance with the Fields Area Domgas Commitment;
- (b)
 - (i) the proposed Assignee is not a reputable person that has the financial standing, technical capacity and proven industry experience including day to day operational management resources available in Australia required to perform the Scarborough Participant's obligations under this Agreement; or
 - (ii) there are other objective circumstances that create a material risk that the proposed Assignee will not comply with its obligations under this Agreement;

- (c) the assigning Scarborough Participant has not provided details of the proposed Assignment, including the identity of the proposed Assignee, an outline of the proposed Assignment relevant to the implementation of this Agreement, and information reasonably requested by the State (including information regarding objective circumstances affecting the proposed Assignee);
 - (d) the proposed Assignee or its Affiliates are in default (which is not in dispute or subject to a remedial or rectification plan), or have been in actual default in the last three years, under any agreement with the State in respect of the supply of domestic gas by the proposed Assignee or its Affiliates from another gas development utilising LNG processing infrastructure in Western Australia; or
 - (e) the State's dealing with the proposed Assignee would contravene any law or official written policy of the State or the Commonwealth of Australia relating to government dealings with entities from countries which are the subject of trade or diplomatic sanctions.
- 14.4 Any conditions imposed on the State's consent to an Assignment may only relate to mitigating any risks to the State arising from the circumstances prescribed in clauses 14.3(a) to 14.3(e).
- 14.5 Notwithstanding clauses 14.3 and 14.4, the Parties acknowledge and agree that it will be reasonable for the State to decline to impose conditions in refusing to provide its consent to an Assignment under clause 14.1.
- 14.6 The Scarborough Participants must not Assign or consent to an Assignment of, an interest in any of the agreements referred to in clause 14.1(a), or any Identified Petroleum Title, without Assigning, or ensuring the Assignment of, a corresponding interest in the applicable Scarborough Participant's rights and obligations under this Agreement (in accordance with clause 14.1) to the same Assignee.

15 NOTICES

- 15.1 Any notice, consent or other writing authorised or required by this Agreement to be given or sent by the State or the Minister to a Scarborough Participant will be deemed to have been duly given or sent if signed by the Premier or the relevant Minister or by any senior officer of the Public Service of the State acting by the direction of the Premier or the relevant Minister (as the case may be) and forwarded by prepaid post or handed or emailed to that Scarborough Participant at its address hereinbefore set forth.
- 15.2 Any notice, consent or other writing authorised or required by this Agreement to be given or sent by a Scarborough Participant to the State or the Minister will be deemed to have been duly given or sent if signed on that Scarborough Participant's behalf by any person or persons authorised by that Scarborough Participant, as notified to the State from time to time and forwarded by prepaid post or handed or emailed to the Premier or the relevant Minister (as the case may be) at the address hereinbefore set forth.
- 15.3 Except in the case of personal service and email (which will be deemed to have been duly given or sent on the day it was served or emailed), any notice, consent or writing under this Agreement shall be deemed to have been duly given or sent on the day on which it would be delivered in the ordinary course of post.

15.4 The address for any notice, consent or other writing under clause 15 for each Party is:

(a) **State**

Attention: Rebecca Brown, Director General of the department of the Minister for State Development (currently the Department of Jobs, Tourism, Science and Innovation)

Address: Level 11, 1 William Street, Perth, Western Australia 6000

Email: rebecca.brown@jtsi.wa.gov.au

with a copy to: WADomesticGasPolicy@jtsi.wa.gov.au

(b) **Woodside**

[Contact details redacted]

(c) **BHP**

[Contact details redacted]

or such other address as may be notified by a Scarborough Participant to the State, or the State to the Scarborough Participants from time to time.

16 WAIVER

16.1 Failure to exercise or delay in exercising any right, power or privilege in this Agreement by the State does not operate as a waiver of that right, power or privilege.

16.2 A single or partial exercise of any right, power or privilege does not preclude:

- (a) any other or further exercise of that right, power or privilege; or
- (b) the exercise of any other right, power or privilege.

17 FORCE MAJEURE

17.1 This Agreement shall be deemed to be made subject to any delays in the performance of the obligations under this Agreement and to the temporary suspension of continuing obligations under this Agreement that may be caused by or arise from circumstances beyond the power and control of the Party responsible for the performance of those obligations including (without limiting the generality of the foregoing) delays or any such temporary suspension as aforesaid caused by or arising from act of God, earthquakes, floods, storms, tempest, washaways, fire, (unless caused by the actual fault or privity of the Party responsible for such performance), act of war, act of public enemies, riots, civil commotions, strikes, lockouts, stoppages, restraint of labour or other similar acts (whether partial or general), acts or omissions of the Commonwealth, shortages of labour or essential materials, reasonable failure to secure contractors, delays of contractors, factors due to overall world economic conditions or factors due to action taken by or on behalf of any Governmental Agency (other than the State or any agency, instrumentality or other authority of the State) or factors that could not reasonably have been foreseen PROVIDED ALWAYS that the

Party whose performance of obligations is affected by any of the said causes must promptly give notice to the other Party or Parties of the event or events and shall use its best endeavours to minimise the effects of such causes as soon as possible after the occurrence.

- 17.2 If the obligations of the Scarborough Participants under this Agreement are delayed due to an event under clause 17.1 that continues for a period of 24 months, and as a result of that same event the T2 Processing Agreement is terminated, then the Scarborough Participants may terminate this Agreement with immediate effect by notice to the State.
- 17.3 Following termination of this Agreement under clause 17.2, but subject to clause 22.3 and 22.4:
- (a) the Parties' rights and obligations to each other will be deemed to be discharged in full, except to the extent such rights or obligations have arisen or accrued prior to the date of termination; and
 - (b) no Party will be liable in any way for any loss or claim brought against, incurred or suffered by, any other Party in connection with or arising out of the termination of this Agreement, except to the extent such claim relates to an event or an act or omission which occurred prior to the date of termination.
- 17.4 Nothing in clause 17.1 requires the affected Party to settle any strike, lockout, labour dispute or industrial or public disturbance except in such manner as in its own judgement it considers acceptable.

18 ARBITRATION

- 18.1 Any dispute or difference between all or any Scarborough Participants on the one hand, and the State on the other hand, arising out of or in connection with this Agreement, or as to the rights, duties or liabilities of any of the Parties under this Agreement or as to any matter to be agreed upon between the Parties under this Agreement shall, in default of agreement between the Parties following a reasonable period of senior executive engagement between the Parties, be referred to and settled by arbitration under the provisions of the *Commercial Arbitration Act 2012 (WA)*. Each Party may be represented before the arbitrator by a duly qualified legal practitioner or other representative. However, this clause shall not apply to any case where the State and the Minister is by this Agreement expressly given a discretionary power (in which case, for the avoidance of doubt, the Parties may exercise their rights at law (if any), subject to clause 25.2). The Parties agree that discretionary powers of the State and the Minister under this Agreement are limited to the following decisions or determinations made under or purportedly under clause 3.2, 3.3(a), 10.1, 10.8, 11, 12 (other than clause 12.3), the approval by the State of a cure plan under clause 13 and 26.
- 18.2 The arbitrators of any submission to arbitration under this clause are hereby empowered upon the application of any of the Parties to grant in the name of the State any interim extension of any period (other than the Term) or to vary or further vary any date referred to in this Agreement (other than any date of commencement or expiration of the Term) which having regard to the circumstances may reasonably be required in order to preserve the rights of that Party or of the Parties under this Agreement. An award may in the name of the State grant any such further extension or variation for that purpose.

19 SEVERABILITY

If a Court or an arbitral tribunal decides that any part of this Agreement is void, voidable, illegal or unenforceable or this Agreement would be void, voidable or unenforceable unless a part is severed from this Agreement, then that part is severed from this Agreement and does not affect the continued operation of the rest of this Agreement. The Parties must meet within 40 Business Days of such court or arbitral tribunal determination to negotiate in good faith the changes (if any) that will be required to enable this Agreement to reflect the State's domgas policy at the Date of this Agreement and the terms of the Agreement as contemplated by the Parties at the Date of this Agreement.

20 CONFIDENTIALITY

20.1 Each Scarborough Participant acknowledges and agrees that:

- (a) the State may disclose this Agreement and any information it receives in connection with this Agreement:
 - (i) to any Minister of the government of the said State;
 - (ii) to the extent necessary to satisfy:
 - (A) any disclosure requirement of the Auditor-General for the State of Western Australia; or
 - (B) the requirements of Parliamentary accountability;
 - (iii) if it is required by written law or by order of a court of competent jurisdiction; and
 - (iv) for the purpose of performing the State's obligations under, and administering, this Agreement; and
- (b) any Minister may disclose this Agreement and any information that Minister receives in connection with this Agreement to fulfil his or her duties of office, including responding to parliamentary questions, parliamentary inquiries, ministerial inquiries and inquiries conducted by or on behalf of the Auditor-General of Western Australia,

provided that where the information proposed to be disclosed comprises information referred to in clauses 20.3(a), 20.3(b) or 20.3(c) or is information which the State has previously determined pursuant to clause 20.3(d) is likely to cause material commercial harm to the Scarborough Participant, the State or the relevant Minister (as appropriate) will advise the recipient of the information of the commercially sensitive nature of the information.

20.2 Each Scarborough Participant acknowledges and agrees that subject to clause 20.3, the State may publish on any Western Australian government internet website or other media:

- (a) this Agreement, except for Schedule 2, Schedule 3 and Schedule 4 to this Agreement;
- (b) an outline of information provided by a Scarborough Participant under clause 9 in relation to any Infrastructure, and the quantity of Fields Area Domgas supplied;
- (c) a summary of information provided under clause 9 in relation to each Scarborough Participant's compliance with its marketing obligations in clause 8;

- (d) an outline of information provided by a Scarborough Participant under clause 9 in relation to the quantity of liquefied natural gas supplied overseas or outside of Western Australia;
- (e) where the State considers it reasonable and appropriate to publicly provide such information and no Party has disputed or is entitled to dispute the default in accordance with clause 13, details of any default or dispute in connection with this Agreement and / or how the default has been remedied or resolved (including a summary of any State approved cure plan);
- (f) an outline of any domgas offset commitment approved and accepted under this Agreement;
- (g) information provided under clause 9 in relation to Fields Area Domgas supplied and available for sale (if any) that is published as part of a Western Australian government initiative developed in consultation with the domestic gas producer industry (including the Scarborough Participants) for ensuring a more informed domestic gas market;
- (h) an outline of the marketing profile referred to in clause 8.1(a) prepared by the State (subject to each Scarborough Participant agreeing that it is an accurate outline of the information provided by it) (such agreement not to be unreasonably withheld or delayed); and
- (i) any other information agreed by the Parties,

provided that prior to publishing any such information under this clause 20.2 the State gives notice to the relevant Scarborough Participant(s) with full particulars of the information the State proposes to publish and the relevant Scarborough Participant will be deemed to have no comments if it fails to provide comments to the State within 10 Business Days of receipt of such notice.

20.3 Subject to clause 20.1 and the State's ability to publish the information referred to in clause 20.2(i), the State may not publicly disclose, announce or publish any information provided by a Scarborough Participant under this Agreement which:

- (a) forms part of the opinion or report referred to in clause 10 of this Agreement;
- (b) identifies any recipient of any natural gas produced from the Identified Petroleum Titles or the price or terms of any contract with a customer of such natural gas;
- (c) includes any information arising from a report submitted under clause 9.1(d) or clause 9.1(e) in relation to maintenance strategies; or
- (d) is proposed to be disclosed pursuant to clause 20.2(c) or clause 20.2(g) if within 10 Business Days of receipt of the notice referred to in clause 20.2, a Scarborough Participant notifies the State in writing that the proposed disclosure would be misleading or incorrect, or reasonably demonstrates to the State that disclosure of the information is likely to cause material commercial harm to the Scarborough Participant, to the extent that the information is likely to have such effect, and providing reasonable particulars of why the proposed disclosure would be misleading or incorrect, or cause material commercial harm to the Scarborough Participant.

20.4 The State acknowledges and agrees that each Scarborough Participant may disclose this Agreement and any information it receives in connection with this Agreement:

- (a) if it is required by written law or by order of a court of competent jurisdiction;
- (b) if it is required by the rules of any recognised securities exchange, including disclosure requirements in the event of an offering of securities;

- (c) if it is strictly and necessarily required in connection with public legal proceedings related to this Agreement;
- (d) for the purpose of performing its obligations under this Agreement;
- (e) to any Governmental Agency;
- (f) to its Affiliates and its and its Affiliates' respective directors, officers, employees, advisers, auditors, banks, financiers, insurers or other consultants or contractors each of whom has (in the reasonable opinion of the Scarborough Participant) a need to know; or
- (g) to:
 - (i) the operator or owner of any Infrastructure;
 - (ii) any bona fide potential Assignee of the whole or a part of the Scarborough Participant's rights and obligations under this Agreement or under the Scarborough JVOA (including an entity with whom the Scarborough Participant and/or its Affiliates are conducting bona fide negotiations directed toward a merger, consolidation or the sale of all or part of its or an Affiliate's shares); or
 - (iii) any, or any bona fide potential, liquefied natural gas or Fields Area Domgas purchaser.

Prior to any disclosure under 20.4(f) or 20.4(g), the Scarborough Participant must notify the proposed disclosee of the confidential nature of this Agreement and the information and ensure that the proposed disclosee is bound by confidentiality obligations similar to those imposed on the Scarborough Participant under this Agreement.

21 CONTINUATION IN FORCE

The expiration or earlier determination of the Term shall not affect the continuance in force of any provision of this Agreement which expressly or by implication is intended to continue in force on or after such expiration or determination, including clauses 6, 20, 22.3 and 22.4.

22 TERM

- 22.1 This Agreement shall commence on the Date of this Agreement and shall end on the date of termination of the T2 Processing Agreement (“**Term**”).
- 22.2 To the extent it is reasonably practicable to do so and not in contravention of a Scarborough Participant’s disclosure obligations or the rules of a recognised securities exchange applicable to a Scarborough Participant, the Scarborough Participants must give reasonable advanced notice to the State of when this Agreement will come to an end under clause 22.1. In any event, the Scarborough Participants must notify the State that this Agreement has terminated not later than 5 Business Days after the end of the Term.
- 22.3 The Parties acknowledge and agree that if any Scarborough Participant recommences production of natural gas from the Identified Petroleum Titles at any time after the expiry of the Term, the Fields Area Domgas Commitment discharged under this Agreement, or any quantity of Fields Area New Domgas and Individual Fields Area New Domgas attributable to liquefied natural gas supplied overseas or outside of Western Australia which has not been supplied as Fields Area Domgas at the expiry of the Term, will carry over as a credit or debit against any similar domestic gas

commitment in any new agreement entered into with the State in respect of the production of natural gas from the Identified Petroleum Titles.

- 22.4 Each Scarborough Participant agrees that, following the end of the Term, it will not Assign the whole or any part of its interests in any Identified Petroleum Titles to an Assignee, unless the assigning Scarborough Participant first procures that the Assignee executes in favour of the State a deed of covenant in a form to be approved by the State (such approval not to be unreasonably withheld) to comply with, observe and perform the assigning Scarborough Participant's obligations in respect of the assigned Identified Petroleum Title(s) which survive termination of this Agreement, being the obligations referred to in clauses 6, 20 and 22.3.

23 ACCRUED RIGHTS

The expiration of the Term shall not affect rights and obligations which have arisen or accrued prior to expiration or earlier determination of the Term, including the rights or remedies of any Party in relation to a breach of this Agreement by any other Party prior to the expiry of the Term.

24 VARIATION

This Agreement may only be varied by an agreement in writing between the Parties.

25 APPLICABLE LAW AND SUBMISSION TO JURISDICTION

- 25.1 This Agreement shall be construed and interpreted in accordance with the laws in force in the State of Western Australia.
- 25.2 Except for matters to be referred to arbitration pursuant to this Agreement the Parties submit to the non-exclusive jurisdiction of the Courts of Western Australia and courts competent to hear appeals therefrom.

26 CHANGES IN DOMGAS RESERVATION PERCENTAGE

- 26.1 The State may at the request from time to time of the Scarborough Participants approve a lesser percentage than 15% as the Relevant Percentage:
- (a) if the State is satisfied:
 - (i) that the domestic gas market in the said State is adequately supplied with natural gas taking into consideration gas supply projects (as part of which natural gas for delivery and use in the said State will be produced) already developed or in respect of which the developers thereof have made a financial investment decision to proceed with the project and the State's then forecasts of future requirements for the delivery and use of natural gas in the said State; and
 - (ii) that the Scarborough Participants have been meeting their Fields Area Domgas Commitment; or
 - (b) for any other reason acceptable to the State, if the State is satisfied that each Scarborough Participant has been meeting its Fields Area Domgas Commitment.

27 NO FETTER

Nothing contained in or implied by this Agreement has the effect of constraining the State, any Minister or other Government Agency or placing any fetter on the State's, any Minister's or other Government Agency's rights, remedies, powers or statutory

discretions under any written law, including under the *Environmental Protection Act 1986* (WA).

28 CHANGE IN LAW

If legislation is enacted after the Date of the Agreement in substitution for or modification of, in whole or in part, provisions of this Agreement and there is any ambiguity as to how the legislation is intended to interact with this Agreement, the Parties must meet within 20 Business Days of a request from any Party to discuss how the legislation impacts this Agreement.

29 ENTIRE AGREEMENT

- 29.1 This Agreement contains the entire agreement between the Parties with respect to its subject matter. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively "**Conduct**") relied on by the Parties and supersedes all earlier Conduct by or between the Parties in connection with its subject matter.
- 29.2 None of the Parties has relied on or is relying on any other Conduct in entering into this Agreement and completing the transactions contemplated by it.

30 COSTS AND DUTY

- 30.1 Each Party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement.
- 30.2 All duty (including stamp duty and any fines, penalties and interest) payable on or in connection with this Agreement and any instrument executed under or any transaction evidenced by this Agreement must be borne by the Scarborough Participants.

31 NO MERGER

The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

SCHEDULE 1 – IDENTIFIED PETROLEUM TITLES

WA-61-L

WA-62-L

SCHEDULE 2

Description of the Infrastructure and service arrangements

The content of this schedule is confidential pursuant to clause 20.2(a) of this Agreement.

SCHEDULE 3 – T2 Planned LNG Profile

The content of this schedule is confidential pursuant to clause 20.2(a) of this Agreement.

SCHEDULE 4 - Reports

The content of this schedule is confidential pursuant to clause 20.2(a) of this Agreement.

EXECUTED as a deed.

SIGNED for and on behalf of the)
STATE OF WESTERN)
AUSTRALIA by **THE**)
HONOURABLE MARK)
McGOWAN, M.L.A., Premier of the)
State of Western Australia, in the)
presence of:)

[Signature]

.....
Signature of **THE HONOURABLE**
MARK McGOWAN M.L.A

[Signature]

.....
Signature of witness

Christopher John Clark

.....
Name of witness (block letters)

EXECUTED by **WOODSIDE ENERGY**)
SCARBOROUGH PTY LTD ABN 38 650)
177 227 in accordance with section 127(1) of)
the *Corporations Act 2001* (Cth):)
)

[Signature]

.....
Signature of director

Daniel Stuart Kalms

.....
Full name of director (block letters)

[Signature]

.....
Signature of ~~director~~/company secretary*

Warren Martin Baillie

.....
Full name of ~~director~~/company secretary*
(block letters)

*delete whichever is not applicable

EXECUTED by **BHP PETROLEUM**)
(AUSTRALIA) PTY. LTD. ABN 39 006 923)
879 in accordance with section 127(1) of the)
Corporations Act 2001 (Cth):)
)

[Signature]

.....

Signature of director

Neil Croker

.....

Full name of director (block letters)

[Signature]

.....

Signature of director/~~company secretary~~*

Ben Kucan

.....

Full name of director/~~company secretary~~*
(block letters)

*delete whichever is not applicable