

MAUI DEVELOPMENT LIMITED  
FIRST GAS LIMITED  
GAS INDUSTRY COMPANY LIMITED

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NOVATION OF  
MEMORANDUM OF UNDERSTANDING  
DATED 5 OCTOBER 2006

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AGREEMENT dated

9th June

2016

## PARTIES

MAUI DEVELOPMENT LIMITED (MDL)

FIRST GAS LIMITED (Substitute Party)

GAS INDUSTRY COMPANY LIMITED (GIC)

## INTRODUCTION

- A. MDL and GIC are parties to a Memorandum of Understanding dated 5 October 2006 (MOU) relating to GIC's role under the Maui Pipeline Operating Code.
- B. MDL and Odysseus Investments Limited (now known as First Gas Holdings Limited (FGHL) (among others) have entered into an agreement for the sale of the assets comprising the Maui Pipeline dated 21 December 2015 (Sale Agreement). FGHL has also recently acquired Vector Gas Limited (now known as First Gas Limited). FGHL has nominated the Substitute Party to be the purchaser under the Sale Agreement.
- C. With effect on and from the date on which Completion (as defined in the Sale Agreement) occurs (Novation Date):
- (i) MDL assigns, novates and transfers all of its rights and obligations under the MOU to Substitute Party;
  - (ii) GIC consents to such assignment, novation and transfer; and
  - (iii) Substitute Party releases MDL from its ongoing obligations under the MOU.

## OPERATIVE PROVISIONS

### 1. INTERPRETATION

In this agreement, unless the context otherwise requires:

- (a) clause and other headings are for ease of reference only and do not affect this agreement's interpretation;
- (b) any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done; and
- (c) words importing the singular number include the plural and vice versa.

### 2. CONDITION

- 2.1 The assignment, novation and transfer of the MOU pursuant to this agreement is conditional in all respects on the completion of the Sale Agreement (Sale Completion) occurring.
- 2.2 This agreement will terminate automatically if the Sale Agreement terminates before Sale Completion.

### 3. NOVATION AND TRANSFER

- 3.1 With effect on the Novation Date:

- (a) MDL assigns, novates and transfers to Substitute Party all of its rights, title, interests, benefits and obligations under the MOU;
- (b) Substitute Party is substituted for MDL under the MOU as if Substitute Party had originally been a party to the MOU instead of MDL;
- (c) all references in the MOU to MDL are to be read and construed as if they were references to Substitute Party;
- (d) Substitute Party may exercise all of MDL's rights and will enjoy all benefits afforded to MDL under the MOU;
- (e) Substitute Party undertakes to GIC that it will perform all of MDL's obligations under the MOU.

3.2 GIC consents to the assignment, transfer and novation of the MOU but without prejudice to GIC's rights, powers and remedies under the MOU.

3.3 For the avoidance of doubt, nothing in this agreement releases MDL from any claims, liabilities or obligations, under the MOU in respect of the period prior to the Novation Date.

#### 4. ASSUMPTION AND RELEASE

4.1 With effect from and including the Novation Date, Substitute Party assumes all of the obligations and liabilities under the MOU as fully and effectively in all respects as if Substitute Party had been named in the MOU as a party in place of MDL and had executed the MOU in that capacity.

4.2 Substitute Party indemnifies MDL against all liability arising out of any default by Substitute Party in the performance of the provisions of the MOU on or after the Novation Date.

4.3 With effect from and including the Novation Date, GIC:

- (a) releases and discharges MDL from all claims, liabilities and demands in respect of the MOU in respect of obligations and liabilities arising on and after the Novation Date;

- (b) accepts the liability of Substitute Party in lieu of the liability of MDL in respect of obligations and liabilities arising on and after the Novation Date; and

- (c) is bound by the terms of the MOU in every way on and from the Novation Date as if Substitute Party were named in the MOU in place of MDL and had executed the MOU in that capacity,

provided that, for the avoidance of doubt, nothing in this agreement imposes on Substitute Party, or subjects such party to, in respect of the period prior to the Novation Date, any obligation or liability in respect of a matter or any action or inaction of MDL.

#### 5. MOU CONTINUES

5.1 Except as set out in this agreement, the terms of the MOU continue in full force and effect.

## 6. WARRANTIES

- 6.1 MDL warrants to Substitute Party that it has complied with, and performed its obligations under, the MOU up to the Novation Date.
- 6.2 Each of MDL and Substitute Party severally represents and warrants that:
- (a) it has the legal capacity and power to enter into this agreement and to perform and comply with its obligations under this agreement and that it has taken all necessary corporate and other action to authorise the execution, delivery and performance of this agreement in accordance with its terms;
  - (b) nothing in this agreement would breach its existing legal or contractual obligations owed to, or undertakings given to, a third party; and
  - (c) this agreement creates obligations that are legally binding on it and are enforceable against it in accordance with the terms of this agreement except as such enforceability may be limited by equitable principles or by bankruptcy, moratorium, insolvency, reorganisation, liquidation or other laws affecting creditors' rights.

## 7. GENERAL

- 7.1 All terms and conditions relating to this agreement that are implied by law or custom are excluded to the maximum extent permitted by law.
- 7.2 The parties acknowledge that this agreement is binding on all successors of each party.
- 7.3 Each party will promptly do everything reasonably required to give effect to this agreement according to its spirit and intent.
- 7.4 This agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement.
- 7.5 This agreement may be executed in any number of counterparts (including facsimile copies) and provided that every party has executed a counterpart, the counterparts together shall constitute a binding and enforceable agreement between the parties.

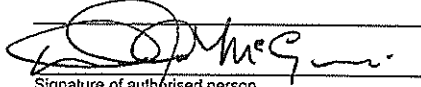
EXECUTED AS AN AGREEMENT

FIRST GAS LIMITED by:

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Name of authorised person

MAUI DEVELOPMENT LIMITED by:

  
\_\_\_\_\_  
Signature of authorised person

David McGuire

Director

\_\_\_\_\_  
Name of authorised person

GAS INDUSTRY COMPANY LIMITED by:

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Name of authorised person

EXECUTED AS AN AGREEMENT

FIRST GAS LIMITED by:

Alan Wu  
Signature of authorised person  
ALAN WU  
Name of authorised person

MAUI DEVELOPMENT LIMITED by:

\_\_\_\_\_  
Signature of authorised person  
\_\_\_\_\_  
Name of authorised person

GAS INDUSTRY COMPANY LIMITED by:

Steve Sieby  
Signature of authorised person  
Steve Sieby  
Name of authorised person