

Decision on the Replacement Perth Energy Pty Ltd Electricity Standard Form Contract and Gas Standard Form Contract

27 October 2011

Economic Regulation Authority

WESTERN AUSTRALIA

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DECISION

1. Pursuant to sections 51 and 52 of the *Electricity Industry Act 2004* (**Electricity Act**) and section 11WF and in conjunction with 11WH of the *Energy Coordination Act 1994* (**Gas Act**), the Economic Regulation Authority (**Authority**) approves the replacement standard form contracts for the supply of electricity and gas to small use customers submitted by Perth Energy Pty Ltd (**Perth Energy**).

REASONS

2. The Authority requested that Perth Energy review its standard form contracts to ensure that they comply with the requirements of the new Australian Consumer Law and the current versions of the *Code of Conduct for the Supply of Electricity to Small Use Customers*, the *Gas Marketing Code of Conduct* and the *Compendium of Gas Customer Licence Obligations* (*Gas Customer Code*).
3. On 20 April 2011, Perth Energy submitted proposed replacement contracts under which the licensee intends to supply gas and electricity to its small use customers.
4. Feedback was provided to Perth Energy regarding unfair contract terms, consumer guarantees, unsolicited consumer agreements, and unfair contract terms. As a result of this feedback, Perth Energy proposed a number of further changes to the contracts.
5. In accordance with the Authority's *Public Consultation Guidelines – For Electricity, Gas & Water Licences and Electricity & Gas Standard Form Contracts* (July 2006), the Authority provided a public consultation period of at least 15 business days between 7 October 2011 and 24 October 2011. No submissions were received.
6. Under the Gas Act and the Electricity Act the Authority must not approve a standard form contract if it considers that the contract will not meet the requirements of the regulations in respect of such contracts, or will be inconsistent with the Act or any other written law, or will be inconsistent with any term, condition or provision of the licence concerned.
7. The Authority has considered Perth Energy's replacement Electricity Standard Form Contract and Gas Standard Form Contract and is satisfied that the contracts meet the requirements of the Electricity Act and the Gas Act and therefore approved both contracts.

LYNDON ROWE
CHAIRMAN

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APPENDICES

Appendix 1 Standard Form Contract – Electricity

Perth Energy Standard Form Electricity Contract

Thank *You* for choosing Perth Energy

Thank *You* for choosing Perth Energy as *Your* electricity retailer. If *You* have any questions or concerns after reading this Standard Form Electricity *Contract* please contact *Us*. We encourage *Our* customers to give *Us* feedback to help *Us* improve, and *We* make all effort to operate better all the time. Perth Energy's contact details are:

Registered Office: Level 4, 165 Adelaide Terrace, Perth WA, 6004
Tel: (08) 9420 0300
Fax: (08) 9474 9900
Email: info@perthenergy.com.au
Website: www.perthenergy.com.au

Information about these terms and conditions, the Code of Conduct, *Laws* and regulations

The State Government regulates the contractual arrangements between electricity suppliers and customers. These terms and conditions, along with the *Customer Schedule*, set out mutual obligations for the supply of electricity from *Us* to *You*. They form the basis of a legally binding *Contract* for this supply.

These terms and conditions apply to the supply of electricity to customers consuming less than 160MWh of electricity per year. By signing the *Customer Schedule* that forms the front page to this *Contract*, *You* agree to these terms and conditions.

The *Code of Conduct for the Supply of Electricity to Small Use Customers* (the "**Code**") regulates the conduct of electricity retailers, metering agents and distributors. The *Code* protects the interests of consumers and covers most aspects involved in the supply of electricity.

A number of *Laws* and regulations, both Commonwealth and State, govern the activities involved in the supply of electricity. The two most directly applicable to these terms and conditions are the *Electricity Industry Act 2004* (WA) and the *Electricity Industry (Customer Contracts) Regulations 2005* (WA).

What *We* mean

We and ***Us*** means Perth Energy Pty Ltd (ABN 39 087 386 445) and ***Our*** has a corresponding meaning. ***You*** means the person/s taking a supply of electricity from *Us* at the *premises* and ***Your*** has a corresponding meaning.

1. Supply of Electricity

We agree to sell electricity to *You* at *Your Premises* and *You* agree to purchase electricity from *Us* on the terms and conditions as set out in this *Contract*. The quantity of electricity supplied by *Us* to *You* will be the amount measured by the *meter* at *Your Premises*. *We* will also provide an account management service in accordance with the *Code* and with *Our Customer Service Charter*.

2. Commencement and Term

2.1 This *Contract* commences, subject to any cooling off period applicable to this *Contract*, on the date that *You* commence to take supply of electricity at the *Premises* from *Us* (other than by fraudulent or illegal means) (**Commencement Date**):

(a) having entered into a supply and sale *Contract* with *Us*; or

- (b) without having entered into a supply and sale *contract* with *Us*; or
 - (c) having cancelled a supply and sale *Contract* with *Us* within the cooling-off period relating to the *Contract*, have continued to take supply of electricity without entering into a further supply and sale *Contract* with *Us*.
- 2.2 *We* must sell and *You* must pay *Us* for electricity consumed at the *Premises* from the *Commencement Date*.
- 2.3 (a) Unless *You* or *We* end the *Contract* earlier under this clause 2.3, this *Contract* continues for a period of 1 year from the day it came into effect. However, if 1 year passes without either *You* or *Us* ending the *Contract* under this clause 2.3, the *Contract* is automatically renewed for another 1 year period. This automatic renewal occurs each year until *You* or *We* end the *Contract* under this clause 2.3.
- (b) If *You* end this *Contract* because *You* enter into a new *Contract* for the supply of electricity with *Us*, this *Contract* ends on the expiry of the cooling off period (if applicable) specified in the new *Contract*.
- (c) If *You* end this *Contract* because *You* enter into a *Contract* for the supply of electricity with another retailer, this *Contract* ends when *We* are deemed to receive notification from the *Network Operator* that *Your Premises* have been transferred to the other electricity retailer in accordance with the *Customer Transfer Code*.
- (d) If *You* are disconnected, and *We* terminate this *Contract*, the *Contract* ends when *You* no longer have any right to reconnection.
- 2.4 *You* can end the *Contract* at any time by advising *Us* at least 5 *Business Days* before the day *You* want the *Contract* to end.
- 2.5 *We* can end the *Contract* by giving *You* prior notice if *You*:
- (a) become insolvent (as defined in the *Corporations Act 2001 (Cth)*); or
 - (b) have a liquidator appointed; or
 - (c) become bankrupt (as defined in the *Bankruptcy Act 1966 (Cth)*); or
 - (d) commit a breach any of *Your* substantial obligations under this *Contract*.
- 2.6 If the *Contract* ends:
- (a) *We* may arrange for a final *Meter* reading and for disconnection on the day the *Contract* ends; and
 - (b) *We* may issue a final bill to *You*; and
 - (c) *We* can charge *You* a fee for the final *Meter* reading, disconnection and final bill; and
 - (d) *We* can remove the *Electricity Supply Equipment* at any time and *You* must let *Us* have safe and unrestricted access to the *Premises* to allow *Us* to do so; and
 - (e) *You* will remain liable to pay any outstanding payments to *Us* and *We* will have no further obligation to supply electricity to *You*; and
 - (f) *You* must enter into a new *Contract* with *Us* if *You* want *Us* to supply *You* electricity.

3. Charges and Fees

You are required to pay *Us* the *Contract Price* and the price of other goods and services *You* choose to buy from *Us*. The *Contract Price* is set out in the *Customer Schedule*.

You must also pay all costs, fees and charges We can lawfully recover from You under the *Relevant Regulations*, as well as any taxes, levies, regulated charges, costs, fees and charges that We have to pay when We sell and supply electricity and other goods and services to You. If You breach this *Contract* or a provision of the *Relevant Regulations* You will be required to pay any costs We incur as a result of that breach, as well as any Fees We charge in relation to that breach.

3.1 The *Customer Schedule* We provide to You as the front page to these terms and conditions will include the following information:

- (a) Your name;
- (b) Your contact details;
- (c) the supply address;
- (d) some of the *Electricity Supply Equipment* details;
- (e) the *Contract Price*;
- (f) the supply date; and
- (g) the *Contract* term.

If mutually agreed, the *Customer Schedule* may also be used to amend these terms and conditions. This, however, will result in the *Contract* becoming a non-standard contract for the purpose of the *Code*.

3.2 A *Contract Price* can include a fixed component and a usage component based on the amount of electricity You use. The usage component can be charged at different rates depending upon the amount of electricity You use.

3.3 We can charge You Fees that are in addition to the *Contract Price*. You must pay Us the fees that apply to You.

3.4 If We have agreed a fixed *Contract Term* with You and a *Contract Price* is specified in the *Customer Schedule*, We cannot change the *Contract Price* without Your prior agreement during the *Contract*, except as provided in clauses 3.5, 3.6, and 3.7.

3.5 We may increase the *Contract Price* or Fees by CPI on each 1 January, 1 April, 1 July or 1 October during the *Contract* ("**Adjustment Date**") in accordance with the *CPI Escalation* formula.

3.6 If at any time after the execution of this *Contract* there occurs:

- (a) a change in existing *Law* (other than a *Law* relating to income tax or capital gains tax); or
- (b) a new *Law* (other than a *Law* relating to income tax or capital gains tax);

(including a *Law* introducing a carbon tax or emission trading scheme or otherwise in respect of carbon) which directly results in an increase or decrease in Our cost of supplying electricity under this *Contract* ("**Change in Law**"), then We may change the *Contract Price* or Fees based on the net financial effect on Us as a consequence of the Change in *Law*, in all cases being sufficient to put Us into the position We would have been in had it not been for the *Change in Law*.

3.7 If a change in the *Network Access Tariffs* occurs, or a new *Network Access Tariff* is imposed, We may adjust the *Contract Price* to the extent necessary to reflect that proportion of the effect of the new *Network Access Tariffs* or change in *Network Access Tariffs* which We estimate in good faith is fairly attributable to or payable by You, taking into account the amount of electricity We supply to You.

If *You* change the rate at which *You* use electricity, *We* may adjust the *Contract Price* to the extent necessary to reflect that proportion of any increase in *Network Access Tariffs* which *We* estimate in good faith is fairly attributable to or payable to *You*, taking into account the amount of electricity *We* supply to *You*.

- 3.8 *We* can charge *you fees* that are in addition to *Contract Price*. *You* must pay *Us* the *fees* that apply to *You*. *We* can charge *You Fees* for:
- (a) *Your* account application; and
 - (b) reading *Your Meter* when access was not possible (see clause 11); and
 - (c) testing *Your Meter* (see clause 5.3); and
 - (d) sending *You* overdue notices (see clause 6.2); and
 - (e) reading *Your Meter* when *You* move out of the *Premises* (see clause 12.4); and
 - (f) turning off *Your* electricity in some situations (see clause 14.3); and
 - (g) turning on *Your* electricity in some situations (see clause 15); and
 - (h) removing or physically disconnecting the *Meter* (see clause 14); and
 - (i) replacing or physically reconnecting the *Meter* (see clause 12); and
 - (j) other non-standard connection costs; and
 - (k) other *Fees*.

All charges identified in clauses 3.2 and 3.3 will be itemised on customers' bill. For an explanation of *Our fees* please visit *Our* website or call *Us*.

4. Notices

- 4.1. Any notice or other communication given under the *Contract*:
- (a) does not have to be in writing, unless the *Contract* expressly requires that the notice or communication must be in writing;
 - (b) subject to clause 4.1(c), is taken to be received:
 - (1) in the case of a verbal communication, at the time of the communication; and
 - (2) in the case of hand delivery, on the date of delivery; and
 - (3) in the case of post, on the second business day after posting; and
 - (4) in the case of facsimile, on the date on which the sender's facsimile machine records that the facsimile was successfully transmitted; and
 - (5) in the case of e-mail, on the date on which the sender's computer or other device from which the e-mail was sent records that the e-mail was successfully transmitted; and
 - (c) if received after 5.00 pm or on a day other than a *Business Day*, is taken to be received on the next *Business Day*.
- 4.2. In this *Contract*, when *We* say *We* will publish information *We* will:
- (a) post information on *Our* website; or
 - (b) communicate to *You* information at the *Premises* according to clause 4.1.
- 4.3. (a) *We* can use electronic communication (such as e-mail or SMS) to give information to *You* with *Your* consent.

(b) *We* can decide procedures as to how electronic communication will operate and what things can be communicated electronically. For more information about electronic communication, visit *Our* website or call *Us*.

5. Billing

- 5.1. *We* use *meter* readings to prepare *Your* bill. *We* bill *You* on the amount of electricity *You* use.
- 5.2. *We* will use *Our* best endeavours to ensure that the *Network Operator* reads the *Meter* once every *Billing Cycle* and the *Network Operator* reads the *Meter* at *Your Premises* at least once every 12 months.

If *We* base *Your* bill on an estimate of electricity consumption, upon *Your* request:

- (a) *We* will advise *You* of the basis and the reasons for the estimation; and
- (b) arrange a *Meter* reading.

If *We* have provided *You* with a bill based on an estimate of electricity consumption, and subsequently *Meter* data becomes available, *We* will adjust the amount payable to take into account that *Meter* data in *Your* next bill.

- 5.3. *You* can ask *Us* to test the *Meter* to ensure that it is measuring accurately and *We* will arrange for the *Network Operator* to test the *Meter* if *You* first pay to *Us* a *Meter* testing fee. If *We* find that the *Meter* is not measuring accurately, then *We* will refund the *Meter* testing fee to *You*. If the *Meter* is not measuring accurately, *We* will also arrange for the *Network Operator* to either repair or replace the *Meter* at no charge to *You*.

By “accurate”, *We* mean the *Meter* is measuring as accurately as the law requires.

- 5.4 *We* will bill *You* at least once every three months and in accordance with the *Billing Cycle* that *We* set for *Our* customers from time to time, unless *We* and *You* have agreed otherwise. As an indication, *Our Billing Cycle* is no more than once every one month and no less than once every three months.

- 5.5 *Your* bill will contain the following information relevant to the *Billing Cycle*:

- (a) the account name and account number; and
- (b) the *Premises* address and (if required) mailing address; and
- (c) the *Contract Price* that *We* charged *You*; and
- (d) the *Fees We* charged *You*; and
- (e) the amount due and the due date; and
- (f) the telephone number for billing and other payment enquiries; and
- (g) the telephone number to contact if *You* are experiencing payment difficulties (see clause 6.4 for information about payment difficulties); and
- (h) the 24-hour telephone number for faults and emergencies; and
- (i) the dates and results of the previous and current *Meter* readings or estimates; and
- (j) *Your* electricity use or estimated use; and
- (k) the *Meter* or property number; and
- (l) the ways *You* can pay *Your* bill, including information about payment methods and payment options available to *You* (see clause 6.1 for some of the payment options); and
- (m) the amount of arrears or credit and the details of any adjustments; and

- (n) the amount of any other charge and the details of any service provided; and
- (o) the availability of a *Meter* test on the conditions described in clause 5.3; and
- (p) interpreter services; and
- (q) the interest rate *We* applied to any outstanding amounts; and
- (r) the details of security *You* provided (in accordance with clause 7.2).

The *Contract Price* and other *Fees* will be separately itemised on *Your* bill. If *We* provide *You* with additional goods and services during the *Billing Cycle*, *We* will also include a description of those goods or services.

6. Payment

- 6.1 *You* must pay the total amount payable for each bill by the due date specified in that bill. The due date will be at least 12 *Business Days* from the date of the bill.

You can pay *Your* bill using a range of payment options, including payment in person and by mail.

You can find out the full range of payment options that *You* can choose from by referring to *Your* bill, by visiting *Our* website or by calling *Us*. If *You* are unable to use one of these options because *You* are going to be absent for a long period (for example due to illness or extended holiday) *You* can arrange with *Us* to redirect *Your* bill or to make payments in advance.

- 6.2 If *You* do not pay the total amount payable for any bill by the due date, then *We* can:

- (a) send a *Disconnection Warning* to *You*; and
- (b) charge *You* a fee for each overdue account notice *We* send to *You* (but only when we are legally entitled to charge a fee); and
- (c) charge *You* interest on the amount *You* have not paid; and
- (d) disconnect *Your* electricity supply; and
- (e) shorten *Your Billing Cycle*.

The interest rate charged on outstanding amounts will be 12.75 percent per annum (calculated daily). *We* may change this rate. If *We* do change this rate, *We* will publish the changes (see clause 4.2 for how *We* publish things).

If *You* do not pay the total amount payable for any bill after *We* send a *Disconnection Warning* to *You*, then *We* can refer *Your* debt to a debt collection agency for collection and if *We* do so, *You* must pay any costs that *We* incur in connection with the recovery of the unpaid bill (including the agency *Fees* and legal *Fees*).

If *You* pay a bill and the payment is dishonoured or reversed and, as a result, *We* incur costs or have to pay *Fees* to any other person, *You* must reimburse *Us* for those costs and *Fees*.

- 6.3 Unless *You* direct *Us* otherwise:

- (a) *We* will apply *Your* payment to the amount due for *Your* electricity use before applying it to other items; and
- (b) if *We* also supply gas to *You*, then *We* will apply *Your* payment to the amount due for *Your* gas use and electricity use in equal proportions before applying it to other items.

- 6.4 If *You* are having trouble paying *Your* bills, please advise *Us*.

As an indication, *We* will offer the following options to *You*:

- (a) instalment plan options, such as a *Payment Plan*; or
- (b) redirection of a bill to a third person; or
- (c) information about, and referral to, government assistance programs; or
- (d) information about independent financial counselling services.

We will assess *Your* request within 3 *business days* of *Your* request and We will offer *You* assistance in accordance with *Our Payment Difficulties and Financial Hardship Policy*.

For more information about government assistance programs and independent financial counselling services, visit *Our* website or call *Us*.

- 6.5 If *You* ask *Us*, and at the time of the request *You* are *Our* customer, We will give *You* a copy of *Your* billing data held by *Us* for the *Premises*. We will use *Our* reasonable endeavours to provide it within 10 *business days* of *Your* request.

Unless We are required by law to provide the billing data free of charge, We can ask *You* to pay a reasonable fee before We provide the data to *You*. For example, We must provide *You* with historical billing data free of charge:

- (a) for the period 2 years before a request; and
- (b) if the request is in relation to a complaint made by *You* to the *Electricity Industry Ombudsman*.

If *You* want billing data for a period before the date We started to supply *You* electricity, *You* will need to ask *Your* former electricity retailer for the billing data.

7 Credit worthiness and Refundable Advances

- 7.1 *You* authorise *Us* to conduct a credit check assessment on *You*.
- 7.2 We can require *You* to provide *Us* with a security from time to time. Usually, security would be in the form of a cash deposit or a bank guarantee.

The amount of *Your* security will be no more than 1.5 times *Your* average bill if *You* pay quarterly or 2 times *Your* average bill if *You* pay monthly. To determine *Your* average bill, We can use *Your* billing history taken over the 3 preceding billing cycles or the consumption history of similar customers or business types.

If *You* provide a security under this clause, then:

- (f) We will keep the security in a trust account and identify it separately in *Our* accounting records; and
- (g) interest will accrue daily at the bank bill rate (as defined in the *Relevant Regulations*) and is capitalised every 90 days unless paid.

- 7.3 We will only use *Your* security, together with any accrued interest, to offset any amount *You* owe *Us* if:

- (a) *Your* failure to pay a bill resulted in the disconnection of supply at the *Premises*; or
- (b) *You* default on a final bill; or
- (c) *You* default on *Your* bill and *You* and *Us* agree that We can use the security to avoid disconnection; or
- (d) *You* have so requested because *You* are leaving the *Premises* or asked *Us* to disconnect supply at the *Premises*; or
- (e) *You* transfer to another retailer.

7.4 If *We* use *Your* security under clause 7.3 above, then within 10 *Business Days* *We* will provide *You* with an account and pay *You* any balance together with any interest.

8. GST

8.1 In this clause:

(a) An expression or word used in this clause which has a particular meaning in the *GST Law*, or in any applicable legislative determinations, has the same meaning, unless the context otherwise requires; and

(b) A reference to *GST* payable by a party includes any corresponding *GST* payable by the representative member of any *GST* group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any *GST* group of which that party is a member.

8.2 Unless *GST* is expressly included, any amount payable under this *Contract* for any supply made under or in connection with this *Contract* does not include *GST*.

8.3 To the extent that any supply made under or in connection with this *Contract* is a taxable supply, the *GST* exclusive consideration otherwise payable or provided for that taxable supply is increased by an amount equal to that consideration multiplied by the rate at which *GST* is imposed in respect of the taxable supply, and subject to receipt of an effective tax invoice, is payable at the same time.

8.4 If for any reason (including, without limitation, the occurrence of an adjustment event) the amount of *GST* paid on a taxable supply (taking into account any decreasing or increasing adjustments in relation to the taxable supply) varies from the *GST* paid by *You*:

(a) *We* must provide a refund or credit to *You*, or *You* must pay a further amount to *Us*, as appropriate, at the same time as the *GST* exclusive component of the adjustment is refunded or paid;

(b) the refund, credit or further amount (as the case may be) will be calculated by *Us* in accordance with the *GST Law*; and

(c) *We* must notify *You* of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of *GST* payable. If there is an adjustment event in relation to the supply, *Our* requirement to notify *You* will be satisfied by *Us* issuing to *You* an adjustment note within 14 days after becoming aware of the occurrence of the adjustment event.

8.5 Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of *GST* paid or payable in respect of any supply made under or in connection with this *Contract*.

8.6 If a payment to a party under this *Contract* is a payment by way of reimbursement or indemnity and is calculated by reference to the *GST* inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for *GST* pursuant to clause 8.3.

9. Review of Bill

9.1 *We* will review a bill at *Your* request, provided that *You* agree to pay any future bills and:

(a) the portion of the bill under review that *You* and *We* agree is not in dispute; or

(b) an amount equal to the average amount of *Your* bills for the previous 12 months.

If the bill is found to be incorrect, *We* will deal with the resulting overcharge or undercharge in accordance with these terms and conditions. If the bill is found to be correct, *You* may request to have *Your Meter* tested to establish whether it is measuring accurately. If the *Meter* is found to comply with the *Metering* standards set in the *Metering Code*, *You* must pay *Us* all costs associated with the test and pay the amount of the bill.

9.2 *We* may recover from *You* any amount *You* have been undercharged. Where *You* have been undercharged as a result of *Our* error, including a *Metering* error, *We* will only recover the amount undercharged in the last 12 months prior to the *Meter* reading date on the last bill sent to *You* (the "**Undercharged Amount**") and will not charge *You* interest on the *Undercharged Amount*. *We* will show the *Undercharged Amount* as a separate item on *Your* bill, together with an explanation of the amount that was undercharged.

We may offer *You* the opportunity to pay the *Undercharged Amount* in instalments. Where *We* have undercharged *You* as a result of fraud by *You*, *We* may take action against *You*. This may include:

- (a) disconnecting supply to *Your Premises* in certain circumstances;
- (b) estimating the electricity usage at the *Premises* for which *You* have not paid *Us*; and
- (c) taking debt recovery action against *You* for the unpaid amount as well as any disconnection costs and *Our* reasonable legal costs.

If *You* have been overcharged *We* will:

- (a) notify *You* of this overcharging within 10 *Business Days* after *We* become aware of the overcharging;
- (b) provide *You* with a refund for the overcharged amount ("**Correcting Refund**");
- (c) refund any charge to *You* for testing the *meter* where the *Meter* is found to be defective; and
- (d) not pay *You* interest on the *Correcting Refund*.

Where *We* are required to pay *You* a *Correcting Refund* under the *Contract*, *You* can choose whether *We* make the *Correcting Refund* as:

- (a) a credit to *Your* account;
- (b) a payment directly to *You*; or
- (c) a payment to a third party (if *You* have given *Us* written instructions to this effect).

If *You* instruct *Us* to credit the overpayment to *Your* account or repay it to *You*, *We* will credit or repay the overpayment in accordance with *Your* instructions within 12 *Business Days* of receiving the instructions. If *We* do not receive any instructions from *You* within 20 *Business Days* of *Us* advising *You* of the overpayment, *We* will use *Our* reasonable endeavours to credit the amount overcharged to *Your* account.

10. Metering

10.1 *We* or the *Network Operator* will provide, install and maintain *Electricity Supply Equipment*, including the *meter* and necessary ancillary equipment at the *Premises*, after due consideration of *Your* wishes.

The *Electricity Supply Equipment* remains the property of the *Network Operator* at all times and the *Network Operator* is responsible for installing and maintaining the *Electricity Supply Equipment*.

You must not do anything that will damage or interfere with the *Electricity Supply Equipment* or use electricity in a way that interferes with that equipment.

“Electricity Supply Equipment” means the *Meter* and any electrical facilities or other equipment used to transmit or measure electricity for transfer to *You*, before the point where electricity is transferred from the *Meter*.

10.2 You are responsible for keeping *Your Equipment* in good working order and condition and taking reasonable precautions to protect *Your Equipment* against surges or interruption in the electricity supplied to *You*. You must not let anyone other than the holder of an electrical worker's license granted under the *Electricity (Licensing) Regulations 1991 (WA)* work on *Your Equipment*. **“Your Equipment”** is all equipment located after (downstream of) the point that electricity leaves the *Meter* at the *premises* which is used to take supply of or consume electricity except any *Electricity Supply Equipment*.

10.3 You must not:

- (a) tamper with, bypass, circumvent or otherwise interfere with the *Electricity Supply Equipment*; or
- (b) do anything that will prevent *Us* from accessing the *Electricity Supply Equipment*; or
- (c) use electricity in a way that interferes with the supply of electricity to anyone else or causes loss to anyone else; or
- (d) unless *You* have *Our* permission, turn the *Meter* on if the *Meter* has been turned off by *Us* or by the *Network Operator*; or
- (e) allow anyone else to do the things described in this clause 10.3.

11. Access

(a) You must let *Us* or persons nominated by *Us* (including the *Network Operator*) have safe and unrestricted access to the *Premises* when *We* need it:

- (1) to read the *Meter*; or
- (2) to inspect or work on the *Electricity Supply Equipment*; or
- (3) to inspect the electricity installation;
- (4) to disconnect or reconnect *Your* electricity supply; or
- (5) to inspect or work on *Your Equipment*; or
- (6) for any other reason relating to the supply of electricity to the *Premises*.

(b) *We* will give *You* 24 hours' notice before *We* or the *Network Operator* enters the *Premises* for the purposes allowed in this *Contract*, except:

- (1) for routine *Meter* reading or *Meter* replacement; or
- (2) in an emergency; or
- (3) if *We* suspect that electricity is being used illegally at the *Premises*.

(c) If *We* or the *Network Operator* enters the *Premises* for the purposes of planned work then *We* will give *You* at least 4 *Business Days*' notice.

(d) Any representative of the *Network Operator* or *Us* who enters the *Premises* will wear, in a visible manner in accordance with *Our* or the *Network Operator*'s requirements, official identification or will carry such identification and show it to *You* if *You* are at the *Premises*.

12. Electricity Supply at *Your premises*

12.1 If *You* move into the *Premises*, then before *We* supply *You* electricity at the *Premises*, *We* can require *You* to:

- (a) apply to *Us* for electricity supply (by phone, by e-mail, in person or in writing) and provide *Us* with identification *We* consider acceptable; and
- (b) provide *Us* with assurance that *We* will be able to access the *Meter* (and other *Electricity Supply Equipment*) according to clause 11; and
- (c) provide *Us* with contact details for billing purposes; and
- (d) provide *Us* with contact details of the property owner or agent if the *Premises* is a rental property; and
- (e) in the case of a new electricity connection, provide *Us* with information about *Your* estimated electricity usage; and
- (f) agree to pay *Us* all relevant charges and *fees* according to this *Contract*; and
- (g) provide *Us* with a security in accordance with clause 7.2; and
- (h) pay *Us* any outstanding debt *You* owe *Us* for the supply of electricity at another *Premises* (but not debts that are subject to a dispute or repayment arrangements).

12.2 *We* will sell *You* electricity from the day that *Your* electricity supply is turned on at the *Premises*. *We* will use *Our* best endeavours to make supply available to *You* at the *Premises* by the date *We* agreed to sell *You* electricity or, if no date was agreed, within 20 *Business Days* from the date of *Your* application.

If *You* move into the *Premises* and it does not already have an existing electricity connection, then before *We* supply *You* electricity at the *Premises* each of the following conditions must be satisfied:

- (a) *You* do the things listed in clause 12.1; and
- (b) the *Electricity Supply Equipment* (and its installation) complies with the regulatory requirements; and
- (c) if *We* ask *You*, *You* have given *Us* notices of installation from a electricity installer; and
- (d) there is an adequate supply available at the boundary of the *Premises*.

12.3 If at the time of entering into the *Contract*, *You* are supplied electricity at the *Premises* by an electricity retailer other than *Us*, *We* will begin to supply *You* with electricity under the *Contract* on the date *You* are transferred from the other electricity retailer to *Us* by the *Network Operator* in accordance with the *Customer Transfer Code*.

Before *We* supply electricity to *You* at the *Premises*, each of the following conditions must be satisfied:

- (a) *You* do the things listed in clause 12.1; and
- (b) the *Electricity Supply Equipment* (and its installation) complies with the regulatory requirements; and
- (c) there is an adequate supply available at the boundary of the *Premises*; and
- (d) the *Meter* at the *Premises* is available to use.

12.4 (a) If *You* move out of the *Premises* and no longer wish to obtain electricity supply at the *Premises*, *You* must advise *Us*:

(1) at least 3 *Business Days* before *You* move out; and

(2) of an address where the final bill can be sent.

(b) If *You* advise *Us* as described in clause 12.4(a), and *You* move out of the *Premises* at the time specified in *Your* notice, then *We* will make a final *Meter* reading on the day that *You* move out of the *Premises* and issue a final bill to *You*. In that case, *You* are only required to pay for electricity used up to the day *You* move out of the *Premises*.

(c) If *You* advise *Us* as described in clause 12.4(a), and *You* move out of the *Premises* before the time specified in *Your* notice then *You* must pay for electricity up to the time specified in *Your* notice unless *You* have demonstrated to *Us* that *You* were evicted from the *Premises* or were otherwise required to vacate the *Premises*.

(d) If *You* do not advise *Us* as described in clause 12.4(a), then subject to any applicable laws, *We* may require *You* to pay for electricity used at the *Premises* for up to a maximum of 5 days after *We* discover that *You* have moved out of the *Premises*. However, *We* will not require *You* to pay for electricity used at the *Premises* from the time that a new customer has an obligation to pay for electricity supply at the *Premises* under a new *Contract*.

(e) If *Your* final bill is in credit after *You* have paid *Us* all amounts payable under clause 12.4, then *You* can choose to have *Us* credit *Your* new account with this amount or repay the amount to *You*.

12.5 *You* agree to:

(a) co-operate with the *Network Operator* in relation to connecting *Your Premises* to the *Electricity Network*; and

(b) allow *Us* to give the *Network Operator* *Your* details.

Although *We* are separate companies, *We* may ask the *Network Operator* to do things for *Us* (such as turn on *Your* electricity supply or read *Your Meter*). Where the *Contract* says *We* will do things that relate to the disconnection or reconnection of supply and the *Electricity Supply Equipment*, *We* may ask the *Network Operator* to do those things for *Us*.

13. Disputes

13.1 If *You* wish to raise a complaint concerning *Our* performance or *Your* electricity supply, *We* encourage *You* to contact *Us* to discuss the issue. *We* will manage any complaint according to the Australian Standard on Complaints Handling ASO ISO 10002-2006 and *Our Customer Complaints Policy*.

13.2 If *You* are unhappy with *Our* response, *You* may make a complaint to a higher level within *Our* management structure. If *You* are still unhappy with *Our* response, then *You* may refer the complaint to the *Electricity Industry Ombudsman* (*You* should give *Us* the opportunity to respond to *Your* complaint before *You* refer it to the *Electricity Industry Ombudsman*). For more information about *Our* complaints handling process and the *Electricity Industry Ombudsman*, visit *Our* website or call *Us*.

14. Disconnection

14.1 *We* can interrupt or disconnect *Your* electricity supply, at any time without notice to *You* in an *Emergency*, if *We* are permitted or required by law or if the *Network Operator* requires *Us* to do so. In this case, *You* can get information on the nature of the *Emergency* and an estimate of when electricity supply is likely to be restored by contacting the *Network Operator's* 24-hour emergency line.

We will try to arrange for the *Network Operator* to turn *Your* electricity on again as soon as possible.

Nothing in the *Contract* limits *Our*, or the *Network Operator's*, statutory powers in relation to emergencies and safety.

14.2 We can interrupt or disconnect *Your* electricity supply if the *Network Operator* needs to carry out planned work on the *Electricity Network*. If this occurs, We will provide *You* with notice of any planned work as required by any *Relevant Regulations*.

14.3 In addition to the reasons in clauses 14.1 and 14.2, We can arrange the *Network Operator* to disconnect *Your* electricity supply, acting in accordance with clause 14.4 and applicable laws (see clause 16 for information about the *Network Operator*), if:

(a) *You* fail to pay a bill (either for the *Premises* or a previous *Premises*) in full by the due date shown on the bill (see clause 5 for information about billing); or

(b) *You* do not agree to a *Payment Plan* or other payment option; or

(c) *You* do not perform *Your* obligations under a *Payment Plan* or other payment option; or

(d) *You* do not give *Us* or the *Network Operator* safe and unrestricted access to the *Premises* or the *Meter* (see clause 10 for information accessing the *premises*); or

(e) *You* commit a fraud relating to *Our* supply of electricity to *You* at the *Premises* or any other *Premises*; or

(f) *You* get electricity supplied to the *Premises* illegally or in breach of a *Relevant Regulation* or code; or

(g) where We require *You* to provide *Us* security, *You* fail to provide it to *Us* (see clause 7.2 for information about security); or

(h) *You* fail to keep *Your Equipment* in good working order or condition (see clause 10 for information about *Your Equipment*); or

(i) *You* get electricity supplied to the *Premises* in breach of this *Contract*.

We can charge *You* a fee for disconnecting *Your* electricity supply in these circumstances.

14.4 If We wish to disconnect *Your* electricity supply because *You* fail to pay a bill, then We will:

(a) give *You* a *Reminder Notice* not less than 13 *Business Days* from the date that We issued *You* the bill advising *You* that payment is overdue and requiring payment by a specified date (which will be not less than 18 *Business Days* after the date that We issued *You* the bill); and

(b) if *You* still have not paid *Us* by the time indicated in the *Reminder Notice*, then give *You* a *Disconnection Warning* advising *You* that We will disconnect *You* on a day that is at least 5 *Business Days* after We give *You* the *Disconnection Warning*; and

(c) not disconnect *You* until at least 1 *Business Day* after the date that We say We will disconnect *Your* electricity supply in the *Disconnection Warning*;

(d) advise *You* of the existence and operation of *Our Customer Complaints Policy*, including the existence and operation of the *Electricity Industry Ombudsman* and specifying the Freecall telephone number of the *Electricity Industry Ombudsman*.

We will not disconnect *You* unless:

(a) *You* have not accepted *Our* offer of a *Payment Plan* (if any) within the specified period; or

(b) *You* have accepted *Our* offer of a *Payment Plan*, but not have taken reasonable action towards settling the debt within the specified time.

For more information about *Your* options if *You* have payment difficulties, refer to *Your* bill, visit *Our* website or call *Us*.

14.5 If *We* wish to disconnect *Your* electricity supply because *You* fail to give *Us* or the *Network Operator* access to the *Premises*, *We* will:

- (a) only disconnect *You* if *You* have denied access for the purposes of reading the *Meter* for the purposes of issuing 3 consecutive bills; and
- (b) give *You* a notice requesting access to the *Meter* at the *Premises* each time access was denied; and
- (c) use *Our* best endeavours to contact *You*; and
- (d) give *You* an opportunity to offer reasonable alternative access arrangements; and
- (e) send to *You* a *Disconnection Warning* advising *You* that *We* will disconnect *Your* electricity supply on a day that is at least 5 *business days* after *You* are deemed to receive the *Disconnection Warning*.

14.6 If *We* wish to disconnect *Your* electricity supply under 14.3(g) because *You* fail to provide any required security to *Us*, *We* will only disconnect *Your* electricity supply after *We* send to *You* a *Disconnection Warning* advising *You* that *We* will disconnect *Your* electricity supply on a day that is at least 5 *business days* after *You* are deemed to receive the *Disconnection Warning*.

14.7 *We* must not disconnect *Your* electricity supply if:

- (a) *You* give *Us* a statement from a *Medical Practitioner* stating that *Your* electricity supply is necessary to protect the life or health of a person who lives at the *Premises* and *You* have entered into arrangements acceptable to *Us* in relation to payment; or
- (b) *You* have applied for a government concession or grant and the application has not been determined; or
- (c) *You* have made a complaint to the *Electricity Industry Ombudsman* about a matter directly relating to the reason for the proposed disconnection and the complaint remains unresolved; or
- (d) *You* have agreed to a *Payment Plan* or other payment option; or
- (e) *You* cannot pay *Your* bill because of a lack of income or other means and *We* have not done the things *We* must do in clause 14.4; or
- (f) *You* have not paid *Your* bill, but the outstanding amount is less than an average bill over the previous 12 months, and *You* have agreed to repay the outstanding amount; or
- (g) *You* have an amount outstanding on *Your* bill that does not relate to the supply of electricity but relates to some other good or service; or
- (h) disconnection would occur after 12:00 noon on a Friday, after 3.00 pm on any other Weekday, on a Weekend or on a Public Holiday or the *Business Day* before a Public Holiday, except in the case of interruptions or disconnections for planned work (see clause 14.2 for information about planned work); or

14.8 If the *Network Operator* disconnects *Your* electricity supply at *Our* request under this clause 14, then:

- (a) *We* can or *You* can arrange for the *Network Operator* to remove or physically disconnect the *meter* at the same time that the supply of electricity to *You* is disconnected, or at a later time; and
- (b) *We* can charge *You* a fee for removing or physically disconnecting the *meter* and replacing or physically reconnecting the *Meter* except if our actions were due to:

- (i) an *Emergency* not caused by *You*; or
- (ii) planned work; and

(c) *You* must not reconnect the electricity supply.

14.9 If *We* think *You* have used, or are obtaining electricity illegally, then *We* can advise the Director of Energy Safety, the *Network Operator* and the Police (as appropriate) and give them any information that *We* have in relation to *Your* electricity use.

14.10 *We* can charge *You* a fee for disconnecting *Your* electricity supply except if the disconnection was due to:

- (a) an *Emergency* not caused by *You*; or
- (b) planned work.

15. Reconnection

If *Your* electricity supply is disconnected under clause 14, then *We* will arrange for the *Network Operator* to reconnect *Your* electricity supply when *You* ask *Us* to reconnect *Your* electricity supply and *We* are reasonably satisfied that the circumstances giving rise to the disconnection no longer exist.

We can charge *You* a fee for reconnecting *Your* electricity supply except if the disconnection was due to:

- (a) an *Emergency*; or
- (b) planned work.

16. Our responsibility for Electricity Supply

In order to sell electricity to *You*, *We* ask the *Network Operator* to deliver the electricity through the *Electricity Network*.

The *Electricity Network* is operated by the *Network Operator* and *We* cannot control the way in which the *Network Operator* operates the *Electricity Network*. For example, *We* cannot control the quality or continuity of electricity being supplied to *You* through the *Electricity Network*.

However, if *You* are a *Consumer*, then certain consumer guarantees to do with *Our* supply of electricity to *You* will arise under the *Australian Consumer Law* in Schedule 2 to the *Competition and Consumer Act 2010 (Cth)* and the *Fair Trading Act 2010 (WA)*. These terms cannot be excluded or modified by any provision of this *contract*.

Except where *You* are a *Consumer* and a consumer guarantee requires *Us* to do so:

(a) *We* do not guarantee that the electricity supplied to *You* will be of any particular quality or that *You* will obtain a continuous supply of electricity without interruptions; and

(b) *We* will not be liable to *You* for:

- (1) any loss or damage associated with any surge in the electricity supply or *Us* failing to supply electricity meeting any particular quality; or
- (2) business interruption loss; or
- (3) lost profits; or
- (4) loss of an opportunity; or
- (5) *Your* liability to other people under contracts or otherwise,

whether arising from or in connection with *Our* breach of *Contract*, *Our* breach of statutory duty, *Our* negligence or otherwise.

As an electricity retailer, *We* are not responsible for matters relating to the operation of the *Electricity Network*. However, to assist *You* when *You* raise a concern with *Us* about *Your* electricity supply, *We* can:

- (a) supply *You* with a copy of the distribution standards if *You* pay *Us* a fee; and
- (b) respond to a request about changes in the quality of *Your* electricity supply that exceed the distribution standards; and
- (c) advise *You* about things *You* can do to avoid interfering with *Electricity Network* equipment or another person's electricity supply; and
- (d) forward *Your* concerns to the *Network Operator*.

For more information about *Our* liability to *You* under this *Contract*, visit *Our* website or call *Us*.

17. Liability

17.1 Notwithstanding any other provision of this *Contract*, nothing in this *Contract* is to be read as excluding, restricting or modifying the application of any legislation which by law cannot be excluded, restricted or modified.

17.2 Except as expressly set out in this *Contract*, any representation, warranty, condition or undertaking which would be implied in this *Contract* by law, is excluded to the maximum extent permitted by law.

17.3 *Our* liability, if any, under this *Contract* is limited to the maximum extent permitted by section 64A of the *Australian Consumer Law* in Schedule 2 to the *Competition and Consumer Act 2010 (Cth)*. That is, in relation to the supply of goods or services not of a kind ordinarily acquired for personal, domestic or household use or consumption, *Our* liability for breach of this *Contract* is limited to (at *Our* option):

(a) in the case of goods being electricity:

- (1) the replacement of the electricity or the supply of equivalent electricity; or
- (2) the payment of the cost of replacing the electricity or of acquiring equivalent electricity;

or

(b) in the case of services:

- (1) the supply of the service again; or
- (2) the payment of the cost of having the services supplied again.

17.4 *Business Customers* must take reasonable precautions to minimise the risk of loss or damage to any equipment, *Premises* or business of the *Business Customer*, which may result from poor quality, or reliability of electricity supply.

18. Privacy and Personal Information

Unless *We* are permitted to do otherwise under this *Contract*, *We* will keep *Your* information confidential in accordance with the procedures and steps set out in *Our Privacy Policy*. In particular *We* will keep *Your* information confidential unless (in accordance with the *Code*):

(a) *We* have *Your* prior written consent; or

(b) the law (including any regulatory, accounting, governmental, Ministerial or stock exchange requirement) requires or permits *Us* to do so; or

- (c) *We* need to use the information for *Our* regulatory reporting or compliance, or in any legal or regulatory proceedings; or
- (d) the information is already in the public domain; or
- (e) *We* believe *You* have used electricity illegally and, as a result, *We* provide relevant information to the Economic Regulation Authority or the Director of Energy Safety; or
- (f) *We* use the information for business purposes.
- (g) *You* have not paid *Your* electricity bill, and *We* disclose information to a credit reporting agency, but *We* will not provide information about a default to a credit reporting agency if:
 - (i) *You* have made a complaint in good faith about the default and the complaint has not been resolved; or
 - (ii) *You* have requested *Us* to review *Your* electricity bill and the review is not yet completed.

For more information about *Our Privacy Policy*, visit *Our* website or call *Us*.

19. Information

19.1 *We* will provide or make the following available to *You*:

- (a) a copy of the terms and conditions of this *Contract*; and
- (b) a copy of the *Relevant Regulations* and a copy of any code; and
- (c) a copy of the distribution standards; and
- (d) information about *Our* policies, *Our* customer service charter and *Our* complaints handling process; and
- (e) information about *the Contract Price* and other *Fees You* must pay; and
- (f) information about energy efficiency; and
- (g) contact details for obtaining information about government assistance programs or financial counselling services referred to in clause 6.4 of this *Contract*; and
- (h) *Your* billing data according to clause 6.5; and
- (i) any other information *We* said *We* would give *You* in this *Contract*.

Unless *We* are legally required to provide the information free of charge, *We* will charge *You* a reasonable fee.

19.2 *You* must advise *Us* as soon as possible if:

- (a) there is a change in *Your* contact details or the address to which *Your* bills are to be sent; or
- (b) the person responsible for paying *Your* bills changes; or
- (c) *You* change something at the *Premises* which makes *Our* access to the *Meter* more difficult; or
- (d) *You* become aware of a problem with the *Electricity Supply Equipment* which is at, or reasonably close to, the *Premises*; or
- (e) *You* change the way *You* use electricity (such as if *You* no longer use *Your* electricity supply for a residential purpose); or
- (f) *You* are planning a change to *Your Equipment* that may affect the quality or safety of electricity supply to *You* or anyone else.

20. Assignment

20.1 You may not assign this *Contract* without *Our* prior written consent.

20.2 We may assign, or otherwise dispose of the whole or any part of *Our* interest in this *Contract* to a person who acquires all or a substantial portion of the assets of *Our* business of retailing energy without *Your* prior consent.

21. Variation

21.1 We can change the terms and conditions of the *Contract* from time to time without *Your* consent subject to those changes being approved by the Economic Regulation Authority, in which case *Your Contract* will be deemed to be amended to reflect those changes. Any changes to the terms and conditions will be published as required by the Economic Regulation Authority.

21.2 If *You* do not agree with an amendment approved by the Economic Regulation Authority, then *You* can end this *Contract* by doing the things described in clause 2.

22. Force Majeure

22.1 The obligations of the parties under this *Contract* shall be suspended (except the obligation to pay any money owing), to the extent to which they are affected, if that failure or delay is due to any cause or condition beyond the reasonable control of that party (**Force Majeure Event**) for as long as the *Force Majeure Event* continues.

22.2 The party affected by a *Force Majeure Event* must give the other prompt notice of that fact including full particulars of the *Force Majeure Event*, an estimate of its likely duration, the obligations affected by it and the extent of its effect on those obligations and the steps taken to remove, overcome or minimise its effects.

22.3 If the effects of a *Force Majeure Event* are widespread, *We* will be deemed to have given *You* prompt notice in accordance with clause 22.2 if *We* make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the *Force Majeure Event* or otherwise as soon as practicable.

22.4 The party affected by a *Force Majeure Event* must use its best endeavours to remove, overcome or minimise the effects of the *Force Majeure Event* as quickly as possible except that this does not require the party to settle any industrial dispute.

23. General

23.1 Nothing in the *Contract* limits or excludes the rights, powers and remedies that *We* have at law or in equity.

The *Contract* also does not in any way limit *Our* obligation to comply with the lawful directions of the Minister for Energy or the Coordinator of Energy or the Director of Energy Safety in relation to emergencies and safety or otherwise.

23.2 The *Contract* and all applicable written laws, represent the entire agreement between *You* and *Us* relating to the matters covered by this *Contract*.

23.3 Clauses 3, 4, 6, 7.3, 7.4, 9.2, 11, 12, 18 and 23.6 will survive termination of this *Contract*.

23.4 If any term or clause of this *Contract* is or becomes invalid or is unenforceable, then the other terms will remain valid and will be unaffected for the duration of this *Contract*.

23.5 If *We* do not exercise *Our* rights under this *Contract* it will not constitute a waiver of those rights.

23.6 If *You* have consumed electricity fraudulently or not in accordance with applicable Law, *We* may recover from *You* any amount which *We* reasonably estimate constitutes the amount by which *We* have not charged or undercharged *You*.

23.7 The *Contract* is governed by the laws of the State of Western Australia.

24. *Unsolicited Consumer Agreement*

Where this *Contract* is an *Unsolicited Consumer Agreement*:

- (a) *You* have a right to end the *Contract* within the *Cooling-off Period*;
- (b) *We* will not supply electricity to *You* under the *Contract* during the *Cooling-off Period* unless *You* request supply; and
- (c) *You* must pay *Us* for electricity supplied and for any services provided in connection with that supply if:
 - (i) at the request, electricity is supplied to *You* by *Us* during the *Cooling-off Period*; and
 - (ii) *You* exercise *Your* right to end the *Contract* during the *Cooling-off Period*.

25. Interpretation

In the *Contract*, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa; and
- (b) a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (c) a reference to a person includes a public body, company, or association or body of persons, incorporated or unincorporated; and
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and permitted assigns; and
- (e) a reference to a clause is a reference to a clause of the *Contract*; and
- (f) headings are included for convenience and do not affect the interpretation of the *Contract*; and
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (h) if a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning; and
- (i) if the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow; and
- (j) a reference to writing includes any means of representing or reproducing words in visible form including by electronic means such as facsimile transmission; and
- (k) a reference to a liability includes any obligation to pay money and any other loss, cost or expense of any kind; and
- (l) a reference to a month is to a calendar month and a reference to a year is to a calendar year; and
- (m) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated inclusive of that day; and
- (n) if a date stipulated for payment or for doing an act is not a *Business Day*, the payment must be made or the act must be done on the next *Business Day*; and

(o) a reference to a monetary amount means that amount in Australian currency.

26. Definitions

In this *contract*, unless the context otherwise requires:

Adjustment Date is defined in clause 3.5.

Billing Cycle means the regular recurrent period in which *You* are deemed to receive a bill from *Us*.

Business Customer means a customer who is not a residential customer.

Business Day means any day except a Saturday, Sunday or public holiday in Western Australia.

Change in Law is defined in clause 3.6.

Consumer has the meaning given in the *Australian Consumer Law* in Schedule 2 to the *Competition and Consumer Act 2010 (Cth)* and the *Fair Trading Act 2010 (WA)*.

Contract means the legally binding agreement between *You* and *Us*, of which these are the terms and conditions.

Contract Price means the charge or charges for electricity as set out in the *Customer Schedule* (which may include a *Peak Energy Price* and an *Off-Peak Energy Price*), as may be adjusted from time to time in accordance with the *Contract*.

Commencement Date is defined in clause 2.1.

Cooling-off Period, as it applies to an *Unsolicited Consumer Agreement*, means the period during which the consumer may terminate the agreement and is the longest of the following periods:

(a) if the agreement was not negotiated by telephone—the period of 10 business days starting at the start of the first business day after the day on which the agreement was made;

(b) if the agreement was negotiated by telephone—the period of 10 business days starting at the start of the first business day after the day on which the consumer was given the agreement document relating to the agreement;

(c) if one or more of the following were contravened in relation to the agreement:

(i) section 73 of the Australian Consumer Law (permitted hours for negotiating an unsolicited consumer agreement);

(ii) section 74 of the Australian Consumer Law (disclosing purpose and identity);

(iii) section 75 of the Australian Consumer Law (ceasing to negotiate on request);

the period of 3 months starting at the start of the first day after the day on which the agreement was made or, if the agreement was negotiated by telephone, the agreement document was given;

(d) if one or more of the following were contravened in relation to the agreement:

(i) section 76 of the Australian Consumer Law (informing consumer of termination period);

(ii) a provision of Subdivision C of the Australian Consumer Law (requirements for unsolicited consumer agreements);

(iii) section 86 of the Australian Consumer Law (prohibition on supplies for 10 business days);

the period of 6 months starting at the start of the first day after the day on which the agreement was made or, if the agreement was negotiated by telephone, the agreement document was given;

(e) such other period as the agreement provides.

Code means the *Code of Conduct (For the Supply of Electricity to Small Use Customers) 2008 (WA)* in force from time to time.

Correcting Refund is defined in clause 9.2.

CPI means the *Consumer Price Index (All Groups for the City of Perth)* published quarterly by the Australian Bureau of Statistics or if that index is no longer published or the way it is

calculated materially changes, such substitute index as determined by Perth Energy acting as a reasonable and prudent person which most closely approximates the original effect of that index.

CPI Escalation means the following formula:

$$A = B \times \frac{CPI_n}{CPI_{n-1}}$$

Where:

A	the Price payable from and including the relevant Adjustment Date;
B	the Price payable immediately before the relevant Adjustment Date;
CPI _n	the CPI for the quarter ending 3 months before the Adjustment Date;
CPI _{n-1}	the CPI applying in the quarter ending 6 months before the Adjustment Date.

Customer Complaints Policy means the policy describing the process to be followed by *Us* in responding to a complaint by *You* and which can be obtained on request or from *Our* website.

Customer Contracts Regulations means the *Electricity Industry (Customer Contracts) Regulations 2005*.

Customer Schedule means the front page to this *Contract* and is further defined in clause 3.1.

Customer Service Charter means the *Perth Energy Customer Service Charter*.

Customer Transfer Code means the *Electricity Industry Customer Transfer Code 2004* in force from time to time.

Disconnection Warning means a notice in writing that *We* issue to *You* advising *You* of a date that *We* may disconnect *You* if *You* have not paid *Your* bill or for health and safety reasons and explaining the complaint handling process that *You* can use if *You* disagree with *Your* bill.

Electricity Industry Ombudsman means the Energy Ombudsman approved by the Economic Regulation Authority.

Electricity Network means the South West Interconnected System (as described in the *Electricity Industry Act 2004*).

Electricity Supply Equipment is defined in clause 10.1.

Emergency means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, or the maintenance of *Electricity Network* security in Western Australia or which destroys or damages, or threatens to destroy or damage, any property in Western Australia.

Fees means a charge that is not a *Contract Price*.

Force Majeure Event is defined in clause 22.

GST means GST as defined in *GST Law*.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* as amended from time to time or any replacement or other relevant legislation and regulations.

Law means:

- (a) the common law (as it applies in the State of Western Australia);
- (b) all present and future acts of the Parliament of the Commonwealth and of the Parliament of the State of Western Australia; and
- (c) all regulations, codes, ordinances, local laws, by-laws, orders, judgments, licences, rules, permits, agreements and requirements of all government agencies.

Medical Practitioner means an individual who is registered as a Medical Practitioner under the *Medical Act 1894 (WA)*.

Meter means the equipment used to measure the volume of electricity that *We* supply to *You*, which does not form part of the *Electricity Network*.

Metering Code means the *Electricity Industry Metering Code 2005* in force from time to time.

Mwh means megawatt-hours.

Network Access Tariffs means the fees payable by *Us* to the *Network Operator* from time to time for the transmission and distribution of access services.

Network Operator means the person who owns and operates the *Electricity Network* (as described in section 3 of the *Energy Coordination Act 1994 (WA)*).

{Note: The *Network Operator* is called the 'electricity distribution operator' in the *Energy Coordination Act 1994* and other *Relevant Regulations*. This operator is responsible for the *Electricity Network*, which is the system via which electricity is delivered to *You*. *We* have no control over the *Electricity Network*.}

Off-Peak Energy Price means the "Off-Peak Energy Price" (if any) specified in the *Customer Schedule*, which is payable for the electricity supplied to *You* during any *Off-peak period*.

Off-Peak Period means a period that is not a *Peak Period*.

Payment Difficulties and Financial Hardship Policy means the policy that *We* have developed and outlines, among other things, *Our* policy on how *We* assist *You* to meet *Your* payment obligations under the *Contract*. A copy of this policy can be obtained on request or from *Our* website.

Payment Plan means a payment option, such as payment by instalments, *We* offer *You* according to *Our Payment Difficulties and Financial Hardship Policy* if *You* are having difficulties paying *Your* bill. *You* can call *Us* or visit *Our* website for more information about *Payment Plans*.

Peak Energy Price means the "Peak Energy Price" (if any) specified in the *Customer Schedule*, which is payable for electricity supplied to *You* during any *Peak Period*.

Peak Period means a period between 8:00 am and 10:00 pm (WST) on any Monday, Tuesday, Wednesday, Thursday or Friday.

Premises means the address to which electricity will be supplied to *You* under the *Contract*.

Privacy Policy means the policy specifying the steps taken by *Us* to maintain customer confidentiality and which can be obtained on request from *Our* customer service centre or from *Our* website.

Reference Price means the charge or charges to be paid by *You* for or in connection with the supply of electricity that *We* publish from time to time.

Relevant Policies means the policies published by *Us* on *Our* website from time to time that are relevant to the *Contract* and include the *Privacy Policy*.

Relevant Regulations means the regulations that are relevant to *Our* supply of electricity to *You* under this *Contract* and include the *Customer Contracts Regulations*.

Reminder Notice means a notice in writing that *We* issue to *You* advising *You* that *You* have not paid *Your* bill and explaining how *We* may assist *You* if *You* are experiencing payment difficulties or financial hardship.

Undercharged Amount is defined in clause 9.2.

Unsolicited Consumer Agreement has the meaning given by section 69 of the *Australian Consumer Law* and includes an agreement that is:

- (a) for the supply, of electricity to a consumer; and
- (b) made as a result of negotiations between *Us* and the consumer:
 - (i) in each other's presence at a place other than our business or trade premises; or
 - (ii) by telephone;whether or not they are the only negotiations that precede the making of the agreement; and

- (c) the consumer did not invite *Us* to come to that place, or to make a telephone call, for the purposes of entering into negotiations relating to the supply of electricity (whether or not the consumer made such an invitation in relation to a different supply); and
- (d) the total price paid or payable by the consumer under the agreement:
 - (i) is not ascertainable at the time the agreement is made; or
 - (ii) if it is ascertainable at that time—is more than \$100 or such other amount prescribed by the regulations.

The consumer is not taken, for the purposes of subsection (c), to have invited *Us* to come to that place, or to make a telephone call, merely because the consumer has:

- (a) given his or her name or contact details other than for the predominant purpose of entering into negotiations relating to the supply of the electricity referred to in subsection (c); or
- (b) contacted *Us* in connection with an unsuccessful attempt by *Us* to contact the consumer.

An invitation merely to quote a price for a supply is not taken, for the purposes of subsection (c), to be an invitation to enter into negotiations for a supply.

(A ***negotiation***, in relation to an agreement or a proposed agreement, includes any discussion or dealing directed towards the making of the agreement or proposed agreement (whether or not the terms of the agreement or proposed agreement are open to any discussion or dealing)).

Your Equipment is defined in clause 10.2.

Appendix 2 Standard Form Contract – Gas

Perth Energy Standard Form Gas Contract

Thank *You* for choosing Perth Energy

Thank *You* for choosing Perth Energy as *Your* gas retailer. If *You* have any questions or concerns after reading this Standard Form Gas *Contract* please contact *Us*. *We* encourage *Our* customers to give *Us* feedback to help *Us* improve, and *We* make all effort to operate better all the time. Perth Energy's contact details are:

Registered Office: Level 4, 165 Adelaide Terrace Perth WA 6004.
Tel: (08) 9420 0300
Fax: (08) 9474 9900
Email: info@perthenergy.com.au
Website: www.perthenergy.com.au

Information about these terms and conditions

These terms and conditions along with the *Customer Schedule*, set out mutual obligations for the supply of gas by *Us* to *You*. They form the basis of a legally binding *Contract* for this gas supply. By signing the *Customer Schedule* that forms the front page to this *Contract*, *You* agree to these terms and conditions.

What *We* mean

We and ***Us*** means Perth Energy Pty Ltd (ABN 39 087 386 445) and ***Our*** has a corresponding meaning. ***You*** means the person/s taking a supply of gas from *Us* at the *Premises* and ***Your*** has a corresponding meaning.

1. Supply of Gas

We agree to sell gas to *You* at *Your Premises* and *You* agree to purchase gas from *Us* on the terms and conditions as set out in this *Contract*. The quantity of gas supplied by *Us* to *You* will be the amount measured by the *Meter* at *Your Premises*.

2. Commencement and Term

- 2.1 This *Contract* commences, subject to any *Cooling-off Period* applicable to this *Contract*, on the date that *You* commence to take supply of gas at the *Premises* from *Us* (other than by fraudulent or illegal means) (***Commencement Date***):
- (a) having entered into a supply and sale *Contract* with *Us*; or
 - (b) without having entered into a supply and sale *Contract* with *Us*; or
 - (c) having cancelled a supply and sale *Contract* with *Us* within the cooling-off period relating to the *Contract*, have continued to take supply of gas without entering into a further supply and sale *Contract* with *Us*.
- 2.2 *We* must sell and *You* must pay *Us* for gas consumed at the *Premises* from the *Commencement Date*.
- 2.3 (a) Unless *You* or *We* end the *Contract* earlier under this clause 2.3, this *Contract* continues for a period of 1 year from the day it came into effect. However, if 1 year passes without either *You* or *Us* ending the *Contract* under this clause 2.3, the *Contract* is automatically renewed for another 1 year period. This automatic renewal occurs each year until *You* or *We* end the *Contract* under this clause 2.3.

(b) If *You* end this *Contract* because *You* enter into a new *Contract* for the supply of gas with *Us*, this *Contract* ends on the expiry of the cooling off period (if applicable) specified in the new *Contract*.

(c) If *You* end this *Contract* because *You* enter into a *Contract* for the supply of gas with another retailer, this *Contract* ends when *We* are deemed to receive notification from the *Network Operator* that *Your Premises* have been transferred to the other gas retailer in accordance with the *Retail Market Rules*.

(d) If *You* are disconnected, and *We* terminate this *Contract*, the *Contract* ends when *You* no longer have any right to reconnection.

2.4 *You* can end the *Contract* at any time by advising *Us* at least 3 *Business Days* before the day *You* want the *Contract* to end.

2.5 *We* can end the *Contract* by giving *You* prior notice if *You*:

(a) become insolvent (as defined in the *Corporations Act 2001 (Cth)*); or

(b) have a liquidator appointed; or

(c) become bankrupt (as defined in the *Bankruptcy Act 1966 (Cth)*); or

(d) commit a breach any of *Your* substantial obligations under this *Contract*.

2.6 If the *Contract* ends:

(a) *We* may arrange for a final *Meter* reading and for disconnection on the day the *Contract* ends; and

(b) *We* may issue a final bill to *You*; and

(c) *We* can charge *You* a fee for the final *Meter* reading, disconnection and final bill; and

(d) *We* can remove the *Gas Supply Equipment* at any time and *You* must let *Us* have safe and unrestricted access to the *Premises* to allow *Us* to do so; and

(e) *You* will remain liable to pay any outstanding payments to *Us* and *We* will have no further obligation to supply gas to *You*; and

(f) *You* must enter into a new *Contract* with *Us* if *You* want *Us* to supply *You* gas.

3. Charges and Fees

You are required to pay *Us* the *Standard Tariff* and the price of other goods and services *You* choose to buy from *Us*. *You* must also pay all costs, fees and charges *We* can lawfully recover from *You* under the *Relevant Regulations*, as well as any taxes, levies, regulated charges, costs, fees and charges that *We* have to pay when *We* sell and supply Gas and other goods and services to *You*. If *You* breach this *Contract* or a provision of the *Relevant Regulations* *You* will be required to pay any costs *We* incur as a result of that breach, as well as any fees *We* charge in relation to that breach.

3.1 There are two main types of *Standard Tariffs* available: residential *Standard Tariff* and business *Standard Tariff*.

a) To be eligible for the residential *Standard Tariff*, the *Premises* must be a dwelling (a house, flat, home unit or other place of residence) and *You* must use *Your* gas supply for a residential (or household) purpose. If *You* are paying a residential *Standard Tariff*, *You* must not use gas for a non-residential purpose and must give *Us* reasonable notice if *You* do so. If

You don't give *Us* reasonable notice, *We* can backdate the business *Standard Tariff* to the start of the non-residential use (up to a maximum of 12 months).

- b) If *You* do not qualify or no longer qualify for the residential *Standard Tariff* *You* must pay the business *Standard Tariff*.
- c) *Your* bill will show *You* which *Standard Tariff* *You* are paying.
- d) If *We* change the *Standard Tariffs*, *We* will publish those changes and the date that the change will take effect (see clause 4.2 for how *We* publish information). *We* will also notify *You* of the changes in the *Standard Tariffs* in *Your* next bill.

For an explanation of the *Standard Tariffs* available please visit *Our* website or call *Us*.

3.2 A *Standard Tariff* can include a fixed component and a usage component based on the amount of gas *You* use. The usage component can be charged at different rates depending upon the amount of gas *You* use.

3.3 *We* can charge *You* fees that are in addition to the *Standard Tariff*. *You* must pay *Us* the fees that apply to *You*. *We* can charge *You* fees for:

- (a) *Your* account application; and
- (b) reading *Your Meter* when access was not possible (see clause 5.2); and
- (c) testing *Your Meter* (see clause 5.3); and
- (d) sending *You* overdue notices (see clause 6.2); and
- (e) reading *Your Meter* when *You* move out of the *Premises* (see clause 12.4); and
- (f) turning off *Your* gas in some situations (see clause 14.6); and
- (g) turning on *Your* gas in some situations (see clause 15); and
- (h) removing or physically disconnecting the *Meter* (see clause 14.11); and
- (i) replacing or physically reconnecting the *Meter* (see clause 14.11); and
- (j) other non-standard connection costs; and
- (k) other fees.

All charges identified in clauses 3.2 and 3.3 will be itemised on customers' bill. For an explanation of *Our* fees please visit *Our* website or call *Us*.

3.4 The *Customer Schedule* will be provided to *You* as the front page to these terms and conditions and includes the following information:

- (a) *Your* name;
- (b) *Your* contact details;
- (c) The supply address;
- (d) Some of the *Gas Supply Equipment* details;
- (e) The supply date; and
- (f) The *Contract* term.

4. Notices

4.1. Any notice or other communication given under the *Contract*:

- (a) does not have to be in writing, unless the *Contract* expressly requires that the notice or communication must be in writing;

(b) subject to clause 4.1(c), is taken to be received:

- (1) in the case of a verbal communication, at the time of the communication; and
- (2) in the case of hand delivery, on the date of delivery; and
- (3) in the case of post, on the second *Business Day* after posting; and
- (4) in the case of facsimile, on the date on which the sender's facsimile machine records that the facsimile was successfully transmitted; and
- (5) in the case of e-mail, on the date on which the sender's computer or other device from which the e-mail was sent records that the e-mail was successfully transmitted; and

(c) if received after 5.00 pm or on a day other than a *Business Day*, is taken to be received on the next *Business Day*.

4.2. In this *Contract*, when *We* say *We* will publish information *We* will:

- (a) post information on *Our* website; or
- (b) communicate to *You* information at the *Premises* according to clause 4.1.

4.3. (a) *We* can use electronic communication (such as e-mail or SMS) to give information to *You* with *Your* consent.

(b) *We* can decide procedures as to how electronic communication will operate and what things can be communicated electronically. For more information about electronic communication, visit *Our* website or call *Us*.

5. Billing

5.1. *We* use *Meter* readings to prepare *Your* bill. *We* bill *You* on the amount of energy in the gas *You* use, not the volume of gas. To calculate *Your* consumption, *We* first measure the volume of gas *You* use via the *Meter* (in cubic meters or cubic feet). *We* then convert the volume of gas *You* use into *Units* by applying a *Heating Value*. This *Heating Value* is measured by the *Network Operator* at a number of places and it can change from time to time.

5.2. *We* will use *Our* best endeavours to ensure that the *Network Operator* reads the *Meter* once every *Billing Cycle*. However, if *We* ask *You* and *You* agree, *You* can read the *Meter* Yourself and provide *Us* with the *Meter* readings. In that case, *We* will bill *You* on the basis of *Your Meter* readings subject to an actual read by the *Network Operator*.

In any event, *We* will use *Our* best endeavours to ensure that the *Network Operator* reads the *Meter* at *Your Premises* at least once every 12 months.

We may provide *You* with an estimated bill if *We* don't have information available to *Us* to prepare an accurate bill in time because:

- (a) access is denied as a result of action by *You*, a third party, weather conditions, an industrial dispute or other reasons beyond our control;
- (b) *You* are vacating the supply address and require a final account immediately;
- (c) access is denied for safety reasons;
- (d) the *Meter* or ancillary equipment has recorded usage incorrectly; or
- (e) the *Meter* has been tampered with or bypassed.

Where *We* provide *You* with an estimated bill, it will be based on:

- (f) *Your* reading of the *Meter*; or

- (g) *Your* prior billing history; or
- (h) if *We* do not have *Your* prior billing history, then *We* may use:
 - (1) the average usage of gas at the *Standard Tariff* that applies to *You*; or
 - (2) the average usage for *Your* type of *Meter*; or
 - (3) the average usage at the *Premises*.

If *We* have provided *You* with an estimated bill, which is not a final bill, and *We* subsequently obtain a *Meter* reading from the *Network Operator*, then *Your* next bill will be adjusted to take account of that *Meter* reading. If *We* have provided *You* with a final bill based on an estimate, *We* will not adjust *Your* final bill if *We* are subsequently able to read the *Meter* or if *We* subsequently obtain a *Meter* reading from the *Network Operator*.

Also, if the reason *We* used an estimate was because it wasn't possible to access *Your Meter* *You* can ask that *We* replace the estimated bill with a bill based on a *Meter* reading. Provided *You* grant the *Network Operator* access to the *Meter* and pay *Us* a reasonable charge, *We* will do so.

- 5.3. *You* can ask *Us* to test the *Meter* to ensure that it is measuring accurately and *We* will arrange for the *Network Operator* to test the *Meter* if *You* first pay to *Us* a *Meter* testing fee. If *We* find that the *Meter* is not measuring accurately, then *We* will refund the *Meter* testing fee to *You*. If the *Meter* is not measuring accurately, *We* will also arrange for the *Network Operator* to either repair or replace the *Meter* at no charge to *You*.

By "accurate", *We* mean the *Meter* is measuring as accurately as the law requires.

- 5.4 *We* will bill *You* at least once every three months and in accordance with the *Billing Cycle* that *We* set for *Our* customers from time to time, unless *We* and *You* have agreed otherwise. As an indication, *Our Billing Cycle* is no more than once every one month and no less than once every three months.

- 5.5 *Your* bill will contain the following information relevant to the *Billing Cycle*:

- (a) the account name and account number; and
- (b) the *Premises* address and (if required) mailing address; and
- (c) the *Standard Tariff* that *We* charged *You*; and
- (d) the *fees* *We* charged *You*; and
- (e) the amount due and the due date; and
- (f) the telephone number for billing and other payment enquiries; and
- (g) the telephone number to contact if *You* are experiencing payment difficulties (see clause 6.4 for information about payment difficulties); and
- (h) the 24-hour telephone number for faults and emergencies; and
- (i) the dates and results of the previous and current *Meter* readings or estimates; and
- (j) *Your* gas use or estimated use; and
- (k) the *Meter* or property number; and
- (l) the ways *You* can pay *Your* bill, including information about payment methods and payment options available to *You* (see clause 6.1 for some of the payment options); and
- (m) if a residential *Standard Tariff* applies to *You*, the concessions that are available to *You* from *Us* or the government; and

- (n) the amount of arrears or credit and the details of any adjustments; and
- (o) the amount of any other charge and the details of any service provided; and
- (p) the availability of a *Meter* test on the conditions described in clause 5.3; and
- (q) interpreter services; and
- (r) the interest rate *We* applied to any outstanding amounts; and
- (s) the details of security *You* provided (in accordance with clause 7.2).

The *Standard Tariff* and other *Fees* will be separately itemised on *Your* bill. If *We* provide *You* with additional goods and services during the *Billing Cycle*, *We* will also include a description of those goods or services.

6. Payment

6.1 *You* must pay the total amount payable for each bill by the due date specified in that bill. The due date will be at least 14 *Business Days* from the date of the bill.

You can pay *Your* bill using a range of payment options, including payment in person and by mail.

You can find out the full range of payment options that *You* can choose from by referring to *Your* bill, by visiting *Our* website or by calling *Us*. If *You* are unable to use one of these options because *You* are going to be absent for a long period (for example due to illness or extended holiday) *You* can arrange with *Us* to redirect *Your* bill or to make payments in advance.

6.2 If *You* do not pay the total amount payable for any bill by the due date, then *We* can:

- (a) send a *Disconnection Warning* to *You*; and
- (b) charge *You* a fee for each overdue account notice *We* send to *You* (but only when we are legally entitled to charge a fee); and
- (c) where *You* are paying a business *Standard Tariff*, charge *You* interest on the amount *You* have not paid; and
- (d) disconnect *Your* gas supply; and
- (e) shorten *Your Billing Cycle*.

If *You* are paying a business *Standard Tariff*, the interest rate charged on outstanding amounts will be 12.75 percent per annum (calculated daily). *We* may change this rate. If *We* do change this rate, *We* will publish the changes (see clause 4.2 for how *We* publish things).

If *You* do not pay the total amount payable for any bill after *We* send a *Disconnection Warning* to *You*, then *We* can refer *Your* debt to a debt collection agency for collection and if *We* do so, *You* must pay any costs that *We* incur in connection with the recovery of the unpaid bill (including the agency *fees* and legal *fees*).

If *You* pay a bill and the payment is dishonoured or reversed and, as a result, *We* incur costs or have to pay *fees* to any other person, *You* must reimburse *Us* for those costs and *fees*.

6.3 Unless *You* direct *Us* otherwise:

- (a) *We* will apply *Your* payment to the amount due for *Your* gas use before applying it to other items; and
- (b) if *We* also supply electricity to *You*, then *We* will apply *Your* payment to the amount due for *Your* gas use and electricity use in equal proportions before applying it to other items.

6.4 If *You* are having trouble paying *Your* bills, please advise *Us*.

As an indication, We will offer the following options to You:

- (a) instalment plan options, such as a *Payment Plan*; or
- (b) redirection of a bill to a third person; or
- (c) information about, and referral to, government assistance programs; or
- (d) information about independent financial counselling services.

If You are paying a residential *Standard Tariff* and seek assistance, We will assess Your request within 3 *Business Days* of Your request and We will offer You assistance in accordance with Our *Payment Difficulties and Financial Hardship Policy*.

For more information about government assistance programs and independent financial counselling services, visit Our website or call Us.

- 6.5 If You ask Us, and at the time of the request You are Our customer, We will give You a copy of Your billing data held by Us for the *Premises*. We will use Our reasonable endeavours to provide it within 10 *Business Days* of Your request.

Unless We are required by law to provide the billing data free of charge, We can ask You to pay a reasonable fee before We provide the data to You. For example, We must provide You with historical billing data free of charge:

- (a) for the period 2 years before a request; and
- (b) if the request is in relation to a complaint made by You to the *Gas Industry Ombudsman*.

If You want billing data for a period before the date We started to supply You gas, You will need to ask Your former gas retailer for the billing data.

7 Credit worthiness and Refundable Advances

- 7.1 You authorise Us to conduct a credit check assessment on You.

- 7.2 We can require You to provide Us with a security from time to time. Usually, security would be in the form of a cash deposit or a bank guarantee.

The amount of Your security will be no more than 1.5 times Your average bill if You pay quarterly or 2.5 times Your average bill if You pay monthly. To determine Your average bill, We can use Your billing history or the consumption history of similar customers or business types.

If You are paying a residential *Standard Tariff*, We can ask You to provide a security when:

- (a) You pay a type of *Standard Tariff* that requires You to provide a security; or
- (b) You do not have a satisfactory payment record at a previous *Premises*; or
- (c) You have applied to Us for supply at a new *Premises* and You do not have an acceptable credit reference; or
- (d) Your gas supply has been disconnected under clause 14.6 of this *Contract* or a similar clause in a previous *Contract*; or
- (e) amounts that were outstanding when You left a previous *Premises* remain unpaid and You refuse to make a payment arrangement for those amounts.

If You provide a security under this clause, then:

- (f) We will keep the security in a trust account and identify it separately in Our accounting records; and

(g) interest will accrue daily at the bank bill rate (as defined in the *Relevant Regulations*) and is capitalised every 90 days unless paid.

7.3 We will only use *Your* security, together with any accrued interest, to offset any amount *You* owe *Us* if:

(a) *Your* failure to pay a bill resulted in the disconnection of supply at the *Premises*; or

(b) *You* default on a final bill; or

(c) *You* default on *Your* bill and *You* and *Us* agree that *We* can use the security to avoid disconnection; or

(d) *You* have so requested because *You* are leaving the *Premises* or asked *Us* to disconnect supply at the *Premises*; or

(e) *You* transfer to another retailer.

7.4 If *We* use *Your* security under clause 7.3 above, then within 10 *Business Days* *We* will provide *You* with an account and pay *You* any balance together with any interest.

8. GST

8.1 In this clause:

(a) An expression or word used in this clause which has a particular meaning in the *GST Law*, or in any applicable legislative determinations, has the same meaning, unless the context otherwise requires; and

(b) A reference to *GST* payable by a party includes any corresponding *GST* payable by the representative member of any *GST* group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any *GST* group of which that party is a member.

8.2 Unless *GST* is expressly included, any amount payable under this *Contract* for any supply made under or in connection with this *Contract* does not include *GST*.

8.3 To the extent that any supply made under or in connection with this *Contract* is a taxable supply, the *GST* exclusive consideration otherwise payable or provided for that taxable supply is increased by an amount equal to that consideration multiplied by the rate at which *GST* is imposed in respect of the taxable supply, and subject to receipt of an effective tax invoice, is payable at the same time.

8.4 If for any reason (including, without limitation, the occurrence of an adjustment event) the amount of *GST* paid on a taxable supply (taking into account any decreasing or increasing adjustments in relation to the taxable supply) varies from the *GST* paid by *You*:

(a) *We* must provide a refund or credit to *You*, or *You* must pay a further amount to *Us*, as appropriate, at the same time as the *GST* exclusive component of the adjustment is refunded or paid;

(b) the refund, credit or further amount (as the case may be) will be calculated by *Us* in accordance with the *GST Law*; and

(c) *We* must notify *You* of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of *GST* payable. If there is an adjustment event in relation to the supply, *Our* requirement to notify *You* will be satisfied by *Us* issuing to *You* an adjustment note within 14 days after becoming aware of the occurrence of the adjustment event.

8.5 Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax

credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this *Contract*.

- 8.6 If a payment to a party under this *Contract* is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 8.3.

9. Review of Bill

- 9.1 We will review a bill at *Your* request, provided that *You* agree to pay any future bills and:

- (a) the portion of the bill under review that *You* and *We* agree is not in dispute; or
- (b) an amount equal to the average amount of *Your* bills for the previous 12 months.

If the bill is found to be incorrect, *We* will deal with the resulting overcharge or undercharge in accordance with these terms and conditions. If the bill is found to be correct, *You* may request to have *Your Meter* tested to establish whether it is measuring accurately. If the *Meter* is found to comply with the metering standards set in the *Retail Market Rules*, *You* must pay *Us* all costs associated with the test and pay the amount of the bill.

- 9.2 *We* may recover from *You* any amount *You* have been undercharged. Where *You* have been undercharged as a result of *Our* error, including a *metering* error, *We* will only recover the amount undercharged in the last 12 months prior to the *Meter* reading date on the last bill sent to *You* (the **Undercharged Amount**) and will not charge *You* interest on the *Undercharged Amount*. *We* will show the *Undercharged Amount* as a separate item on *Your* bill, together with an explanation of the amount that was undercharged.

We will offer *You* the opportunity to pay the *Undercharged Amount* in instalments over the same length of time during which *You* were undercharged. Where *We* have undercharged *You* as a result of fraud by *You* or use of gas otherwise than in accordance with this *Contract*, *We* may take action against *You*. This may include:

- (a) disconnecting supply to *Your Premises* in certain circumstances;
- (b) estimating the gas usage at the *Premises* for which *You* have not paid *Us*; and
- (c) taking debt recovery action against *You* for the unpaid amount as well as any disconnection costs and *Our* reasonable legal costs.

If *You* have been overcharged *We* will:

- (a) notify *You* of this overcharging within 10 *Business Days* after *We* become aware of the overcharging;
- (b) provide *You* with a refund for the overcharged amount (**Correcting Refund**);
- (c) refund any charge to *You* for testing the *Meter* where the *Meter* is found to be defective; and
- (d) not pay *You* interest on the *Correcting Refund*.

Where *We* are required to pay *You* a *Correcting Refund* under the *Contract*, *You* can choose whether *We* make the *Correcting Refund* as:

- (a) a credit to *Your* account;

- (b) a payment directly to *You*; or
- (c) a payment to a third party (if *You* have given *Us* written instructions to this effect).

10. Metering

10.1 *We* or the *Network Operator* will provide, install and maintain *Gas Supply Equipment*, including the *Meter* and necessary ancillary equipment at the *Premises*, after due consideration of *Your* wishes.

The *Gas Supply Equipment* remains the property of the *Network Operator* at all times and the *Network Operator* is responsible for installing and maintaining the *Gas Supply Equipment*.

You must not do anything that will damage or interfere with the *Gas Supply Equipment* or use gas in a way that interferes with that equipment.

"Gas Supply Equipment" means the *Meter* and any pipes, pressure regulators or other equipment used to transport, measure, or control gas for delivery to *You*, before (upstream of) the point that gas leaves the *Meter*.

10.2 *You* are responsible for keeping *Your Equipment* in good working order and condition. **"Your Equipment"** is all equipment located after (downstream of) the point that gas leaves the *Meter* at the *Premises* which is used to take supply of or consume gas except any *Gas Supply Equipment*.

10.3 *You* must not:

- (a) tamper with, bypass, circumvent or otherwise interfere with the *Gas Supply Equipment*; or
- (b) do anything that will prevent *Us* from accessing the *Gas Supply Equipment*; or
- (c) use gas in a way that interferes with the supply of gas to anyone else or causes loss to anyone else; or
- (d) unless *You* have *Our* permission, turn the *Meter* on if the *Meter* has been turned off by *Us* or by the *Network Operator*; or
- (e) allow anyone else to do the things described in this clause 10.3.

11. Access

(a) *You* must let *Us* or persons nominated by *Us* (including the *Network Operator*) have safe and unrestricted access to the *Premises* when *We* need it:

- (1) to read the *Meter*; or
- (2) to inspect or work on the *Gas Supply Equipment*; or
- (3) to inspect the gas installation (as defined in section 4 of the Gas Standards Act 1972 (WA));
- (4) to disconnect or reconnect *Your* gas supply; or
- (5) to inspect or work on *Your Equipment*; or
- (6) for any other reason relating to the supply of gas to the *Premises*.

(b) *We* will give *You* 24 hours' notice before *We* or the *Network Operator* enters the *Premises* for the purposes allowed in this *Contract*, except:

- (1) for routine *Meter* reading or *Meter* replacement; or
- (2) in an *Emergency*; or

(3) if *We* suspect that gas is being used illegally at the *Premises*.

(c) If *We* or the *Network Operator* enters the *Premises* for the purposes of planned work then *We* will give *You* at least 4 *Business Days*' notice.

(d) Any representative of the *Network Operator* or *Us* who enters the *Premises* will wear, in a visible manner in accordance with *Our* or the *Network Operator's* requirements, official identification or will carry such identification and show it to *You* if *You* are at the *Premises*.

12. Gas Supply at *Your Premises*

12.1 If *You* move into the *Premises*, then before *We* supply *You* gas at the *Premises*, *We* can require *You* to:

(a) apply to *Us* for gas supply (by phone, by e-mail, in person or in writing) and provide *Us* with identification *We* consider acceptable; and

(b) provide *Us* with assurance that *We* will be able to access the *Meter* (and other *Gas Supply Equipment*) according to clause 11; and

(c) provide *Us* with contact details for billing purposes; and

(d) provide *Us* with contact details of the property owner or agent if the *Premises* is a rental property; and

(e) in the case of a new gas connection, provide *Us* with information about *Your* estimated gas usage; and

(f) in the case of an existing gas connection, provide *Us* with information on the number and type of appliances installed, number of household occupants and anticipated usage of appliances; and

(g) agree to pay *Us* all relevant charges and *fees* according to this *Contract*; and

(h) provide *Us* with a security in accordance with clause 7.2; and

(i) pay *Us* any outstanding debt *You* owe *Us* for the supply of gas at another *Premises* (but not debts that are subject to a dispute or repayment arrangements).

12.2 *We* will sell *You* gas from the day that *Your* gas supply is turned on at the *Premises*. *We* will use *Our* best endeavours to make supply available to *You* at the *Premises* by the date *We* agreed to sell *You* gas or, if no date was agreed, within 20 *Business Days* from the date of *Your* application.

If *You* move into the *Premises* and it does not already have an existing gas connection, then before *We* supply *You* gas at the *Premises* each of the following conditions must be satisfied:

(a) *You* do the things listed in clause 12.1; and

(b) the *Gas Supply Equipment* (and its installation) complies with the regulatory requirements; and

(c) if *We* ask *You*, *You* have given *Us* notices of installation from a gas installer; and

(d) there is an adequate supply available at the necessary volume and pressure at the boundary of the *Premises*.

12.3 If *You* move into the *Premises* and it has an existing gas connection, *We* will use *Our* best endeavours to make supply available to *You*:

(a) in accordance with the standards maintained by the *Network Operator*; and

(b) at the *Premises* by the date *We* agreed to sell *You* gas or, if no date was agreed, within 1 *Business Day* from the date of *Your* application.

Before *We* supply gas to *You* at the *Premises*, each of the following conditions must be satisfied:

- (a) *You* do the things listed in clause 12.1; and
- (b) *You* apply to *Us* before 3.00 pm on the *Business Day* before *You* require connection; and
- (c) the *Gas Supply Equipment* (and its installation) complies with the regulatory requirements; and
- (d) there is an adequate supply available at the necessary volume and pressure at the boundary of the *Premises*; and
- (e) the *Meter* at the *Premises* is available to use; and
- (f) the relevant *Gas Network* standards are met.

We will charge *You* for gas supplied to the *Premises* from the date that the *Meter* at the *Premises* was last read, unless *You* read the *Meter* and advise *Us* of the *Meter* reading within 3 *Business Days* of the day that *You* move in. If a final *Meter* reading was not taken, *We* will estimate the amount of gas used by the previous occupant so *We* do not overcharge or undercharge *You*.

12.4 (a) If *You* move out of the *Premises* and no longer wish to obtain a gas supply at the *Premises*, *You* must advise *Us*:

- (1) at least 3 *Business Days* before *You* move out; and
- (2) of an address where the final bill can be sent.

(b) If *You* advise *Us* as described in clause 12.4(a), and *You* move out of the *Premises* at the time specified in *Your* notice, then *We* will make a final *Meter* reading on the day that *You* move out of the *Premises* and issue a final bill to *You*. In that case, *You* are only required to pay for gas used up to the day *You* move out of the *Premises*.

(c) If *You* advise *Us* as described in clause 12.4(a), and *You* move out of the *Premises* before the time specified in *Your* notice then *You* must pay for gas up to the time specified in *Your* notice unless *You* have demonstrated to *Us* that *You* were evicted from the *Premises* or were otherwise required to vacate the *Premises*.

(d) If *You* do not advise *Us* as described in clause 12.4(a), then subject to any applicable laws, *We* may require *You* to pay for gas used at the *Premises* for up to a maximum of 3 days after *We* discover that *You* have moved out of the *Premises* (subject to any applicable laws). However, *We* will not require *You* to pay for gas used at the *Premises* from the time that a new customer has an obligation to pay for gas supply at the *Premises* under a new *Contract*.

(e) If *Your* final bill is in credit after *You* have paid *Us* all amounts payable under clause 12.4, then *You* can choose to have *Us* credit *Your* new account with this amount or repay the amount to *You*.

12.5 *You* agree to:

- (a) co-operate with the *Network Operator* in relation to connecting *Your Premises* to the *Gas Network*; and
- (b) allow *Us* to give the *Network Operator* *Your* details.

Although *We* are separate companies, *We* may ask the *Network Operator* to do things for *Us* (such as turn on *Your* gas supply or read *Your Meter*). Where the *Contract* says *We* will do things that relate to the disconnection or reconnection of supply and the *Gas Supply Equipment*, *We* may ask the *Network Operator* to do those things for *Us*.

13. Disputes

13.1 If *You* wish to raise a complaint concerning *Our* performance or *Your* gas supply, *We* encourage *You* to contact *Us* to discuss the issue. *We* will manage any complaint according to the Australian Standard on Complaints Handling AS ISO 10002-2006 and *Our Customer Complaints Policy*.

13.2 If *You* are unhappy with *Our* response, *You* may make a complaint to a higher level within *Our* management structure. If *You* are still unhappy with *Our* response, then *You* may refer the complaint to the *Gas Industry Ombudsman* (*You* should give *Us* the opportunity to respond to *Your* complaint before *You* refer it to the *Gas Industry Ombudsman*). For more information about *Our* complaints handling process and the *Gas Industry Ombudsman*, visit *Our* website or call *Us*.

14. Disconnection

14.1 *We* can interrupt or disconnect *Your* gas supply, at any time without notice to *You* in an *Emergency*, if *We* are permitted or required by law or if the *Network Operator* requires *Us* to do so. *We* will:

(a) provide information via the 24 hour *Emergency* line about the nature of the *Emergency* and estimate the time when supply will be restored; and

(b) use *Our* best endeavours to turn *Your* gas on again as soon as possible (see clause 14.10 for information about reconnecting *Your* gas supply).

14.2 *We* can interrupt or disconnect *Your* gas supply for a health or safety reason if, before *We* do so:

(a) *We* notify *You* in writing of the reason; and

(b) where *We* think *You* can fix the reason, *You* have had 5 *Business Days* to fix it; and

(c) where after 5 *Business Days* the reason remains, *We* send to *You* a *Disconnection Warning* advising *You* that *We* will disconnect *Your* gas supply on a day that is at least 5 *Business Days* after *You* are deemed to receive the *Disconnection Warning*.

We can charge *You* a fee for disconnecting *Your* gas supply in these circumstances, but only if the reason was due to *Your* act or omission.

14.3 *We* can interrupt or disconnect *Your* gas supply if the *Network Operator* needs to carry out planned work on the *Gas Network*. If this occurs, *We* will use *Our* best endeavours to give to *You* at least 4 days' notice before interrupting or disconnecting *Your* gas supply and *We* will reconnect *Your* gas supply as soon as *We* can.

14.4 In addition to the reasons in clauses 14.1 to 14.3, *We* can arrange the *Network Operator* to disconnect *Your* gas supply, acting in accordance with clause 14.5 and applicable laws (see clause 16 for information about the *Network Operator*), if:

(a) *You* fail to pay a bill (either for the *Premises* or a previous *Premises*) in full by the due date shown on the bill (see clause 5 for information about billing); or

(b) *You* do not agree to a *Payment Plan* or other payment option; or

(c) *You* do not perform *Your* obligations under a *Payment Plan* or other payment option; or

(d) *You* do not give *Us* or the *Network Operator* safe and unrestricted access to the *Premises* or the *Meter* (see clause 10 for information accessing the *Premises*); or

(e) *You* commit a fraud relating to *Our* supply of gas to *You* at the *Premises* or any other *Premises*; or

(f) *You* get gas supplied to the *Premises* illegally or in breach of a relevant regulation or code; or

(g) where *We* require *You* to provide *Us* security, *You* fail to provide it to *Us* (see clause 7.2 for information about security); or

(h) *You* fail to keep *Your Equipment* in good working order or condition (see clause 10 for information about *Your Equipment*); or

(i) *You* get gas supplied to the *Premises* in breach of this *Contract*.

We can charge *You* a fee for disconnecting *Your* gas supply in these circumstances.

14.5 If *We* wish to disconnect *Your* gas supply because *You* fail to pay a bill, then *We* will:

(a) give *You* a *Reminder Notice* not less than 14 *Business Days* from the date that *We* issued *You* the bill advising *You* that payment is overdue and requiring payment by a specified date (which will be not less than 20 *Business Days* after the date that *We* issued *You* the bill); and

(b) if *You* still have not paid *Us* by the time indicated in the *Reminder Notice*, then give *You* a *Disconnection Warning* not less than 22 *Business Days* from the date that *We* issued *You* the bill, advising *You* that *We* will disconnect *You* on a day that is at least 10 *Business Days* after *We* give *You* the *Disconnection Warning*; and

(c) not disconnect *You* until at least 1 *Business Day* after the date that *We* say *We* will disconnect *Your* gas supply in the *Disconnection Warning*;

(d) use *Our* best endeavours to contact *You*; and

(e) if *You* are paying a residential *Standard Tariff*:

(1) offer *You* a *Payment Plan* or alternative *Payment Plan*; and

(2) give *You* information in accordance with clause 6.4; and

(f) if *You* are paying a business *Standard Tariff*, offer to extend the due date for payment on terms and conditions (including the payment of interest).

We will not disconnect *You* unless:

(a) *You* have not accepted *Our* offer under either clause 14.5(e) or (f) within the specified period (which must be at least 5 *Business Days*); or

(b) *You* have accepted *Our* offer but not have taken reasonable action towards settling the debt within the specified time.

For more information about *Your* options if *You* have payment difficulties, refer to *Your* bill, visit *Our* website or call *Our Us*.

14.6 If *We* wish to disconnect *Your* gas supply because *You* fail to give *Us* or the *Network Operator* access to the *Premises*, *We* will:

(a) only disconnect *You* if *You* have denied access for the purposes of reading the *Meter* for the purposes of issuing 3 consecutive bills; and

(b) give *You* a notice requesting access to the *Meter* at the *Premises* each time access was denied; and

(c) use *Our* best endeavours to contact *You*; and

(d) give *You* an opportunity to offer reasonable alternative access arrangements; and

(e) send to *You* a *Disconnection Warning* advising *You* that *We* will disconnect *Your* gas supply on a day that is at least 5 *Business Days* after *You* are deemed to receive the *Disconnection Warning*.

14.7 If *We* wish to disconnect *Your* gas supply under 14.4(g) because *You* fail to provide any required security to *Us*, *We* will only disconnect *Your* gas supply after *We* send to *You* a *Disconnection Warning* advising *You* that *We* will disconnect *Your* gas supply on a day that is at least 5 *Business Days* after *You* are deemed to receive the *Disconnection Warning*.

14.8 *We* must not disconnect *Your* gas supply if:

(a) *You* give *Us* a statement from a *Medical Practitioner* stating that *Your* gas supply is necessary to protect the life or health of a person who lives at the *Premises* and *You* have entered into arrangements acceptable to *Us* in relation to payment; or

(b) *You* have applied for a government concession or grant and the application has not been determined; or

(c) *You* have made a complaint to the *Gas Industry Ombudsman* about a matter directly relating to the reason for the proposed disconnection and the complaint remains unresolved; or

(d) *You* have agreed to a *Payment Plan* or other payment option; or

(e) *You* cannot pay *Your* bill because of a lack of income or other means and *We* have not done the things *We* must do in clause 14.5; or

(f) *You* have not paid *Your* bill, but the outstanding amount is less than an average bill over the previous 12 months, and *You* have agreed to repay the outstanding amount; or

(g) *You* have an amount outstanding on *Your* bill that is not a *Standard Tariff* or any other charge contemplated by the *AGA Code*; or

(h) disconnection would occur on a Friday, after 3.00 pm on any other Weekday, on a Weekend or on a Public Holiday, except in the case of interruptions or disconnections for planned work (see clause 14.3 for information about planned work).

14.9 If the *Network Operator* disconnects *Your* gas supply at *Our* request under this clause 14, then:

(a) *We* can or *You* can arrange for the *Network Operator* to remove or physically disconnect the *Meter* at the same time that the supply of gas to *You* is disconnected, or at a later time; and

(b) *We* can charge *You* a fee for removing or physically disconnecting the *Meter* and replacing or physically reconnecting the *Meter*; if our actions were due to:

(i) a health and safety reason;

(ii) an *Emergency*; or

(iii) planned work,

but only if the reason was due to *Your* act or omission;

and

(c) *You* must not reconnect the gas supply.

14.10 If *We* think *You* have used, or are obtaining, gas illegally, then *We* can advise the Director of Energy Safety, the *Network Operator* and the Police (as appropriate) and give them any information that *We* have in relation to *Your* gas use.

14.11 The supplier or distributor shall use its best endeavours to minimise interruption to supply occasioned by planned maintenance or augmentation and restore supply as soon as practicable.

15. Reconnection

If *Your* gas supply is disconnected under clause 14, then *We* will arrange for the *Network Operator* to reconnect *Your* gas supply when *You* ask *Us* to reconnect *Your* gas supply and *We* are reasonably satisfied that the circumstances giving rise to the disconnection no longer exist.

For example, the circumstance giving rise to the disconnection may no longer exist because *You* provide access to the *Premises* and the *Meter* or *We* are reasonably satisfied that *You* cannot continue to obtain *Your* gas in the unauthorised way and *You* have paid all amounts owing to *Us* under this *Contract* (or made an arrangement to pay them).

We will reconnect *Your* gas supply if, within 10 *Business Days* after disconnection, the circumstances giving rise to the disconnection no longer exist. If *Your* gas supply is disconnected in an *Emergency* situation (under clause 14.1), for health or safety reasons (under clause 14.2) or planned work reasons (under clause 14.3), then *We* will reconnect *Your* gas supply if, within 20 *Business Days* after disconnection, the circumstances giving rise to the disconnection no longer exist.

If *We* are obliged to reconnect *Your* gas supply and *You* ask *Us* to reconnect *Your* gas supply at a time:

- (a) before 3.00 pm on a *Business Day*, then *We* will use *Our* best endeavours to reconnect *Your* gas supply on the same day as *Your* request; or
- (b) after 3.00 pm on a *Business Day*, then *We* will use *Our* best endeavours to reconnect *Your* gas supply as soon as *We* can on the next *Business Day* or the same *Business Day* if *You* pay the after hours reconnection fee and *You* ask before 5:00 pm.

We can charge *You* a fee for reconnecting *Your* gas supply except if the disconnection was due to:

- (a) a health and safety reason, unless the reason was due to *Your* act or omission;
- (b) an *Emergency*, unless the reason was due to *Your* act or omission; or
- (c) planned work.

This clause 15 does not apply to cases where disconnection is required under the Gas Standards Act 1972 (WA).

16. *Our* responsibility for Gas Supply

In order to sell gas to *You*, *We* ask the *Network Operator* to deliver the gas through the *Gas Network*.

The *Gas Network* is operated by the *Network Operator* and *We* cannot control the way in which the *Network Operator* operates the *Gas Network*. For example, *We* cannot control the quality, volume or continuity of gas being supplied to *You* through the *Gas Network*.

However, if *You* are a *Consumer*, then certain consumer guarantees to do with *Our* supply of gas to *You* will arise under the *Australian Consumer Law* in Schedule 2 to the *Competition and Consumer Act 2010 (Cth)* and the *Fair Trading Act 2010 (WA)*. These terms cannot be excluded or modified by any provision of this *Contract*.

Except where *You* are a *Consumer* and a consumer guarantee requires *Us* to do so:

- (a) *We* do not guarantee that the gas supplied to *You* will be of any particular quality or that *You* will obtain a continuous supply of gas without interruptions; and
- (b) *We* will not be liable to *You* for:
 - (1) any loss or damage associated with any surge in the gas supply or *Us* failing to supply gas meeting any particular quality; or
 - (2) business interruption loss; or
 - (3) lost profits; or
 - (4) loss of an opportunity; or

(5) *Your* liability to other people under contracts or otherwise, whether arising from or in connection with *Our* breach of *Contract*, *Our* breach of statutory duty, *Our* negligence or otherwise.

As a gas retailer, *We* are not responsible for matters relating to the operation of the *Gas Network*. However, to assist *You* when *You* raise a concern with *Us* about *Your* gas supply, *We* can:

- (a) supply *You* with a copy of the distribution standards if *You* pay *Us* a fee; and
- (b) respond to a request about changes in the quality of *Your* gas supply that exceed the distribution standards; and
- (c) advise *You* about things *You* can do to avoid interfering with *Gas Network* equipment or another person's gas supply; and
- (d) forward *Your* concerns to the *Network Operator*.

For more information about *Our* liability to *You* under this *Contract*, visit *Our* website or call *Us*.

17. Liability

17.1 Notwithstanding any other provision of this *Contract*, nothing in this *Contract* is to be read as excluding, restricting or modifying the application of any legislation which by law cannot be excluded, restricted or modified.

17.2 Except as expressly set out in this *Contract*, any representation, warranty, condition or undertaking which would be implied in this *Contract* by law, is excluded to the maximum extent permitted by law.

17.3 *Our* liability, if any, under this *Contract* is limited to the maximum extent permitted by section 64A of the Australian Consumer Law in Schedule 2 to the Competition and Consumer Act 2010. That is, in relation to the supply of goods or services not of a kind ordinarily acquired for personal, domestic or household use or consumption, *Our* liability for breach of this *Contract* is limited to (at *Our* option):

- (a) in the case of goods being energy:
 - (1) the replacement of the gas or the supply of equivalent gas; or
 - (2) the payment of the cost of replacing the gas or of acquiring equivalent gas; or
- (b) in the case of services:
 - (1) the supply of the service again; or
 - (2) the payment of the cost of having the services supplied again.

17.4 *Business Customers* must take reasonable precautions to minimise the risk of loss or damage to any equipment, *Premises* or business of the *Business Customer*, which may result from poor quality, or reliability of gas supply.

18. Privacy and Personal Information

Unless *We* are permitted to do otherwise under this *Contract*, *We* will keep *Your* information confidential in accordance with the procedures and steps set out in *Our Privacy Policy*. In particular *We* will keep *Your* information confidential in accordance with the *Marketing Code of Conduct* unless:

- (a) *We* have *Your* prior written consent; or

- (b) the law (including any regulatory, accounting, governmental, Ministerial or stock exchange requirement) requires or permits *Us* to do so; or
- (c) *We* need to use the information for *Our* regulatory reporting or compliance, or in any legal or regulatory proceedings; or
- (d) the information is already in the public domain; or
- (e) *We* believe *You* have used gas illegally and, as a result, *We* provide relevant information to the Economic Regulation Authority or the Director of Energy Safety; or
- (f) *We* use the information for business purposes.

For more information about *Our Privacy Policy*, visit *Our* website or call *Us*.

19. Information

19.1 *We* will provide or make the following available to *You*:

- (a) a copy of the terms and conditions of this *Contract*; and
- (b) a copy of the *Relevant Regulations* and a copy of any code; and
- (c) a copy of the distribution standards; and
- (d) information about *Our* policies, *Our* customer service charter and *Our* complaints handling process; and
- (e) information about *Standard Tariff* and other *fees You* must pay; and
- (f) information about energy efficiency; and
- (g) contact details for obtaining information about government assistance programs or financial counselling services referred to in clause 6.4 of this *Contract*; and
- (h) *Your* billing data according to clause 6.5; and
- (i) any other information *We* said *We* would give *You* in this *Contract*.

Unless *We* are legally required to provide the information free of charge, *We* will charge *You* a reasonable fee.

19.2 *You* must advise *Us* as soon as possible if:

- (a) there is a change in *Your* contact details or the address to which *Your* bills are to be sent; or
- (b) the person responsible for paying *Your* bills changes; or
- (c) *You* change something at the *Premises* which makes *Our* access to the *Meter* more difficult; or
- (d) *You* become aware of a gas leak or a problem with the *Gas Supply Equipment* which is at, or reasonably close to, the *Premises*; or
- (e) *You* change the way *You* use gas (such as if *You* no longer use *Your* gas supply for a residential purpose but *You* still pay a residential *Standard Tariff*); or
- (f) *You* are planning a change to *Your Equipment* that may affect the quality or safety of gas supply to *You* or anyone else.

20. Assignment

20.1 *You* may not assign this *Contract* without *Our* prior written consent.

20.2 We may assign, or otherwise dispose of the whole or any part of *Our* interest in this *Contract* to a person who acquires all or a substantial portion of the assets of *Our* business of retailing energy without *Your* prior consent.

21. Variation

21.1 We can change the terms and conditions of the *Contract* from time to time without *Your* consent subject to those changes being approved by the Economic Regulation Authority, in which case *Your Contract* will be deemed to be amended to reflect those changes. Any changes to the terms and conditions will be published as required by the Economic Regulation Authority.

21.2 If *You* do not agree with an amendment approved by the Economic Regulation Authority, then *You* can end this *Contract* by doing the things described in clause 2.

22. Force Majeure

22.1 The obligations of the parties under this *Contract* shall be suspended (except the obligation to pay any money owing), to the extent to which they are affected, if that failure or delay is due to any cause or condition beyond the reasonable control of that party (**Force Majeure Event**) for as long as the *Force Majeure Event* continues.

22.2 The party affected by a *Force Majeure Event* must give the other prompt notice of that fact including full particulars of the *Force Majeure Event*, an estimate of its likely duration, the obligations affected by it and the extent of its effect on those obligations and the steps taken to remove, overcome or minimise its effects.

22.3 If the effects of a *Force Majeure Event* are widespread, *We* will be deemed to have given *You* prompt notice in accordance with clause 22.2 if *We* make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the *Force Majeure Event* or otherwise as soon as practicable.

22.4 The party affected by a *Force Majeure Event* must use its best endeavours to remove, overcome or minimise the effects of the *Force Majeure Event* as quickly as possible except that this does not require the party to settle any industrial dispute.

23. General

23.1 Nothing in the *Contract* limits or excludes the rights, powers and remedies that *We* have at law or in equity.

The *Contract* also does not in any way limit *Our* obligation to comply with the lawful directions of the Minister for Energy or the Coordinator of Energy or the Director of Energy Safety in relation to emergencies and safety or otherwise.

23.2 *We* will comply with certain provisions in the *Relevant Regulations* and a number of codes, standards and *Relevant Policies*, including:

- (a) the standards of service set out in Part 5 of the *Customer Contracts Regulations*;
- (b) the *Marketing Code*;
- (c) *Gas Customer Code*; and
- (d) the standards of service in *Our* customer charter and *Our* policies.

You can obtain more information about the *Marketing Code, Gas Customer Code, Relevant Regulations* and *Our* policies from *Us* or the Economic Regulation Authority.

23.3 The *Contract* and all applicable written laws, represent the entire agreement between *You* and *Us* relating to the matters covered by this *Contract*.

23.4 Clauses 3, 4, 6, 7.3, 7.4, 9.2, 11, 12, 18 and 23.7 will survive termination of this *Contract*.

23.5 If any term or clause of this *Contract* is or becomes invalid or is unenforceable, then the other terms will remain valid and will be unaffected for the duration of this *Contract*.

23.6 If *We* do not exercise *Our* rights under this *Contract* it will not constitute a waiver of those rights.

23.7 If *You* have consumed gas fraudulently or not in accordance with Applicable Law, *We* may recover from *You* any amount which *We* reasonably estimate constitutes the amount by which *We* have not charged or undercharged *You*.

23.8 The *Contract* is governed by the laws of the State of Western Australia.

24. Unsolicited Consumer Agreement

Where this *Contract* is an *Unsolicited Consumer Agreement*:

- *You* have a right, to end the *Contract* within the *Cooling-off Period*;
- *We* will not supply Gas to *You* under the *Contract* during the *Cooling-off Period* unless *You* request supply; and
- *You* must pay *Us* for Gas supplied and for any services provided in connection with that supply if:
 - at *Your* request, Gas is supplied to *You* by *Us* during the *Cooling-off Period*; and
 - *You* exercise *Your* right to end the *Contract* during the *Cooling-off Period*.

25. Interpretation

In the *Contract*, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa; and
- (b) a reference to any thing is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (c) a reference to a person includes a public body, company, or association or body of persons, incorporated or unincorporated; and
- (d) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and permitted assigns; and
- (e) a reference to a clause is a reference to a clause of the *Contract*; and
- (f) headings are included for convenience and do not affect the interpretation of the *Contract*; and
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them; and
- (h) if a word or phrase is defined, other grammatical forms of that word or phrase have a corresponding meaning; and
- (i) if the word "including" or "includes" is used, the words "without limitation" are taken to immediately follow; and
- (j) a reference to writing includes any means of representing or reproducing words in visible form including by electronic means such as facsimile transmission; and

- (k) a reference to a liability includes any obligation to pay money and any other loss, cost or expense of any kind; and
- (l) a reference to a month is to a calendar month and a reference to a year is to a calendar year; and
- (m) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated inclusive of that day; and
- (n) if a date stipulated for payment or for doing an act is not a *Business Day*, the payment must be made or the act must be done on the next *Business Day*; and
- (o) a reference to a monetary amount means that amount in Australian currency.

25. Definitions

In this *Contract*, unless the context otherwise requires:

Billing Cycle means the regular recurrent period in which *You* are deemed to receive a bill from *Us*.

Business Customer means a customer who is not a *Residential Customer*.

Business Day means any day except a Saturday, Sunday or public holiday in Western Australia.

Commencement Date is defined in clause 2.1

Consumer has the meaning given in the *Australian Consumer Law* in Schedule 2 to the *Competition and Consumer Act 2010 (Cth)* and the *Fair Trading Act 2010 (WA)*.

Contract means the legally binding agreement between *You* and *Us*, of which these are the terms and conditions.

Cooling-off Period, as it applies to an *Unsolicited Consumer Agreement*, means the period during which the consumer may terminate the agreement and is the longest of the following periods:

- (a) if the agreement was not negotiated by telephone—the period of 10 business days starting at the start of the first business day after the day on which the agreement was made;
- (b) if the agreement was negotiated by telephone—the period of 10 business days starting at the start of the first business day after the day on which the consumer was given the agreement document relating to the agreement;
- (c) if one or more of the following were contravened in relation to the agreement:
 - (i) section 73 of the Australian Consumer Law (permitted hours for negotiating an unsolicited consumer agreement);
 - (ii) section 74 of the Australian Consumer Law (disclosing purpose and identity);
 - (iii) section 75 of the Australian Consumer Law (ceasing to negotiate on request);

the period of 3 months starting at the start of the first day after the day on which the agreement was made or, if the agreement was negotiated by telephone, the agreement document was given;

- (d) if one or more of the following were contravened in relation to the agreement:
 - (i) section 76 of the Australian Consumer Law (informing consumer of termination period);
 - (ii) a provision of Subdivision C of the Australian Consumer Law (requirements for unsolicited consumer agreements);
 - (iii) section 86 of the Australian Consumer Law (prohibition on supplies for 10 business days);

the period of 6 months starting at the start of the first day after the day on which the agreement was made or, if the agreement was negotiated by telephone, the agreement document was given;

- (e) such other period as the agreement provides.

Correcting Refund is defined in clause 9.2

Customer Complaints Policy means the policy describing the process to be followed by *Us* in responding to a complaint by *You* and which can be obtained on request or from *Our* website.

Customer Contracts Regulations means the *Energy Coordination (Customer Contracts) Regulations 2004 (WA)*.

Customer Schedule means the front page to this *Contract* and is further defined in clause 3.4.

Disconnection Warning means a notice in writing that *We* issue to *You* advising *You* of a date that *We* may disconnect *You* if *You* have not paid *Your* bill or for health and safety reasons and explaining the complaint handling process that *You* can use if *You* disagree with *Your* bill.

Emergency means an emergency due to the actual or imminent occurrence of an event which in any way endangers or threatens to endanger the safety or health of any person, or the maintenance of *Gas Network* security in Western Australia or which destroys or damages, or threatens to destroy or damage, any property in Western Australia.

Fees means a charge that is not a *Standard Tariff*.

Force Majeure Event is defined in clause 22

Gas Customer Code means the *Compendium of Gas Customer License Obligations* in force from time to time.

Gas Industry Ombudsman means the person approved by the Economic Regulation Authority under section 11ZPZ(1) of the *Energy Coordination Act 1994 (WA)*.

Gas Network means the distribution system used to distribute gas (as described in section 3 of the *Energy Coordination Act 1994 (WA)*).

Gas Supply Equipment is defined in clause 10.1.

Gas Tariffs Regulations means the *Energy Coordination (Gas Tariffs) Regulations 2000 (WA)*.

GST means GST as defined in *GST Law*.

GST Law means *A New Tax System (Goods and Services Tax) Act 1999* as amended from time to time or any replacement or other relevant legislation and regulations.

Heating Value is the amount of energy in a given volume of gas, as determined by the *Network Operator* from time to time.

Marketing Code means the *Gas Marketing Code of Conduct 2004* in force from time to time.

Medical Practitioner means an individual who is registered as a Medical Practitioner under the *Medical Act 1894 (WA)*.

Meter means the equipment used to measure the volume of gas that *We* supply to *You*, which does not form part of the *Gas (Distribution) Network*.

Network Operator means the person who owns and operates the *Gas Network* (as described in section 3 of the *Energy Coordination Act 1994 (WA)*).

{Note: The *Network Operator* is called the 'gas distribution operator' in the *Energy Coordination Act 1994* and other *Relevant Regulations*. This operator is responsible for the *Gas Network*, which is the system via which gas is delivered to *You*. *We* have no control over the *Gas Network*.}

Payment Difficulties and Financial Hardship Policy means the policy that *We* have developed and outlines, among other things, *Our* policy on how *We* assist *You* to meet *Your* payment obligations under the *Contract*. A copy of this policy can be obtained on request or from *Our* website.

Payment Plan means a payment option, such as payment by instalments, *We* offer *You* according to *Our Payment Difficulties and Financial Hardship Policy* if *You* are having difficulties paying *Your* bill. *You* can call *Us* or visit *Our* website for more information about *Payment Plans*.

Premises means the address to which gas will be supplied to *You* under the *Contract*.

Privacy Policy means the policy specifying the steps taken by *Us* to maintain customer confidentiality and which can be obtained on request from *Our* customer service centre or from *Our* website.

Relevant Policies means the policies published by *Us* on *Our* website from time to time that are relevant to the *Contract* and include the *Privacy Policy*.

Relevant Regulations means the regulations that are relevant to this *Contract* and includes the *Customer Contracts Regulations* and the *Gas Tariffs Regulations*.

Reminder Notice means a notice in writing that *We* issue to *You* advising *You* that *You* have not paid *Your* bill and explaining how *We* may assist *You* if *You* are experiencing payment difficulties or financial hardship.

Residential Customer means a customer to whom gas is supplied for residential purposes as defined in the *Gas Tariffs Regulations*.

Retail Market Rules means the same as it does in the *Energy Coordination Act 1994 (WA)*.

Standard Tariff means the charge to be paid by *You* for or in connection with the supply of gas under the *Gas Tariffs Regulations* or such lesser charge that *We* publish from time to time.

Undercharged Amount is defined in clause 9.2

Unit is a measure of the amount of energy in gas, with one *Unit* equalling 3.6 megajoules, which is the same as 1 kilowatt-hour or one Unit of electricity.

Unsolicited Consumer Agreement has the meaning given by section 69 of the *Australian Consumer Law* and includes an agreement that is:

- (a) for the supply, of gas to a consumer; and
- (b) made as a result of negotiations between *Us* and the consumer:
 - (i) in each other's presence at a place other than our business or trade premises; or
 - (ii) by telephone;whether or not they are the only negotiations that precede the making of the agreement; and
- (c) the consumer did not invite *Us* to come to that place, or to make a telephone call, for the purposes of entering into negotiations relating to the supply of gas (whether or not the consumer made such an invitation in relation to a different supply); and
- (d) the total price paid or payable by the consumer under the agreement:
 - (i) is not ascertainable at the time the agreement is made; or
 - (ii) if it is ascertainable at that time—is more than \$100 or such other amount prescribed by the regulations.

The consumer is not taken, for the purposes of subsection (c), to have invited *Us* to come to that place, or to make a telephone call, merely because the consumer has:

- (a) given his or her name or contact details other than for the predominant purpose of entering into negotiations relating to the supply of the gas referred to in subsection (c); or
- (b) contacted *Us* in connection with an unsuccessful attempt by *Us* to contact the consumer.

An invitation merely to quote a price for a supply is not taken, for the purposes of subsection (c), to be an invitation to enter into negotiations for a supply.

(A **negotiation**, in relation to an agreement or a proposed agreement, includes any discussion or dealing directed towards the making of the agreement or proposed agreement (whether or not the terms of the agreement or proposed agreement are open to any discussion or dealing)).

Your Equipment is defined in clause 10.2.