

Esperance Gas Distribution Company

NATURAL GAS RETAILER STANDARD FORM CONTRACT For The Esperance Natural Gas Distribution System

NOTICE IF THIS IS AN UNSOLICITED CONSUMER AGREEMENT

The Competition and Consumer Act 2010 (Cth) and the Fair Trading Act 2010 (WA), set out when an agreement is an “unsolicited consumer agreement”.

If the Customer would like more information about unsolicited consumer agreements, contact should be made with the Australian Competition and Consumer Commission.

If the Customer requires advice about whether the Customer’s agreement with Esperance Gas Distribution Company Pty Ltd (EGDC) is an unsolicited consumer agreement, a lawyer should be consulted.

Date: ___/___/___ Signature of customer: _____ Name of customer: _____

(Please retain this document for future reference)

Guidelines about when an agreement with EGDC may be an unsolicited consumer agreement

1. This agreement may be an unsolicited consumer agreement if it is made as a result of negotiations between the Customer and EGDC:
 - a) in each other's presence at a place other than EGDC's business or trade premises or by telephone; and
 - b) where no invitation was given to EGDC to come to that place, or to make a telephone call, for the purposes of entering into negotiations relating to the supply of the goods or services supplied under this agreement (whether or not such an invitation was made in relation to a different supply).

2. The Customer is not a consumer, and this agreement is not an unsolicited consumer agreement, if the Customer acquires the goods, or held themselves out as acquiring the goods:
 - a) for the purpose of re-supply; or
 - b) for the purpose of using them up or transforming them, in trade or commerce:
 - i. in the course of a process of production or manufacture; or
 - ii. in the course of repairing or treating other goods or fixtures on land.

3. The Competition and Consumer Act 2010 (Cth) and the Fair Trading Act 2010 (WA) and the regulations supporting it set out other circumstances in which an agreement may be an unsolicited consumer agreement and also provide a number of exceptions and further detail relating to the above information.

Important Notice to the Consumer

The Customer has a right to cancel this agreement within 10 business days from and including the day after the Customer signed or received this agreement.

Details about the Customer's additional rights to cancel this agreement are set out in Appendix A of this document.

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Appendix A – Information on Consumer Rights to Cancel this Agreement

Appendix B – Standard Gas Supply Request and Agreement Form

**ESPERANCE GAS DISTRIBUTION COMPANY PTY LTD
(ABN 18 166 539 993)**

**NATURAL GAS RETAILER
STANDARD TERMS AND CONDITIONS**

1. The Retailer

The Retailer will sell the Customer gas under the terms and conditions contained in this document. The Retailer's details are:

Business name: Esperance Gas Distribution Company Pty Ltd (EGDC)

Australian business number: 18 166 539 993

Registered office: Level 38, 120 Collins Street, MELBOURNE VIC 3000

Business address: 22b Dutton Arcade 91 Dempster St ESPERANCE WA 6450

Postal address: PO Box 2392 Esperance WA 6450

Internet Website: www.esperance-energy.com.au

Business telephone number: (08) 9072 1422

Business email: Neville.selby@twps.com.au

The Retailer (EGDC) is a separate company to the gas distribution operator, Esperance Power Station (EPS). EGDC acts on behalf of Esperance Power Station Pty Ltd (EPS) as its Gas Distributor and share the same operational office at 22b Dutton Arcade 91 Dempster Street Esperance WA 6450.

The company you buy your gas from is your gas Retailer. Your gas distribution operator (EPS) is the company that owns and operates the gas pipes in your area. As a Retailer, EGDC is responsible for purchasing gas on your behalf and looking after all your gas needs, including new connections, general enquiries, billing, keeping you informed on issues relating to your gas supply and providing you with various products and offers.

2. Gas Network Operation

The Customer acknowledges that the delivery of Gas pursuant to this contract will be by a distribution system (as defined in the *Energy Co-ordination Act 1994 (WA)*) (called the Network) and that the gas distribution network is owned and operated by EPS.

EGDC (as representative of EPS) is the gas distribution operator for the purposes of this contract and is also responsible for the maintenance, operations, reliability, gas quality, service extension and meter connection to customers.

3. Terms and Conditions

These are the terms and conditions of the legally binding contract for a Retailer to sell the Customer gas at the supply address, and for the Customer to pay the Retailer for that gas.

These terms and conditions set out the Retailer and the Customer rights and obligations regarding that sale.

4. Change in Terms and Conditions

The Retailer can change these terms and conditions. When the Retailer does so, the Retailer will publish the changed terms and conditions and the date from which the change commences, through:

- a) advertising the changes in the local newspaper in Esperance; and
- b) placing details of the changes on the Retailer website; and
- c) posting the Customer a notice of the changes, either with the Customer's next bill or separately.

The terms and conditions will change on the published date.

If the Customer disagrees to the changed terms and conditions of the contract, the Customer can end the contract as per Clause 33.

(Note: The standard terms and conditions can only be changed with the Economic Regulation Authority's consent, by amendment to our trading licence or to the form of contract approved by the Economic Regulation Authority under the Energy Coordination Act 1994)

5. Term of the Contract

Subject to the Retailer's right to disconnect the supply of Gas in accordance with clause 28, this contract commences on the Commencement Date and continues until terminated in accordance with the terms of the contract, provided that if the Customer is not registered as a Customer of the Retailer by the gas distribution operator on the Commencement Date and/or the Premises is not connected to the Network, the Retailer's obligation to supply Gas pursuant to the contract will not commence until these matters have been completed.

6. Unsolicited Consumer Agreements

The Retailer will not perform any unsolicited trading (eg. customer door knock) without an appointment before 9am and after 6pm, Monday through to Friday, or after 5pm on Saturdays. No unsolicited trading will occur on Sundays or public holidays.

Where the Retailer has offered the Customer an unsolicited consumer agreement (defined under section 64A, schedule 2 of the *Competition and Consumer Act 2010*) as a result of unsolicited trading, the unsolicited consumer contract shall be effected subject to:

- a) negotiations leading to the formation of the contract (whether or not they are the only negotiations that precede the formation of the contract) take place between the Retailer and the Customer in each other's presence at a place in Western Australia other than trade premises of the Retailer;
- b) the Retailer attends at that place in the course of the unsolicited marketing and otherwise than at the unsolicited invitation of the Customer; and

A Customer has a right to rescind an unsolicited consumer contract within the period of 10 business days (cooling off period) after the contract is entered.

The Retailer shall not supply gas to the Customer under the contract during the cooling off period unless the Customer requests supply.

The Customer shall pay the Retailer for all gas supplied and for any services provided in connection with that supply if:

- i. at the request of the Customer, gas is supplied to the Customer during the cooling-off period;
- ii. the Customer exercises the Customer's rights to rescind the contract during the period.

7. Customer Charter

The Customer Charter outlines the commitments, responsibilities and standards of service the Retailer will provide to customers. It summarises the customer's rights and obligations in dealing with the Retailer.

The Retailer will provide the customer with a copy of the company's Customer Charter free of charge within 2 business days after receiving the request. The Customer Charter should be read in conjunction with the terms and conditions contained in this document.

The terms of this Contract apply should there be any inconsistency between the Contract and the Charter.

8. Goods and Services and Liabilities

8.1 Supply of Goods and Services

The Retailer will supply the Customer with natural gas that complies with the applicable government and industry standards.

Under the terms and conditions of this contract, the Retailer will:

- 1) arrange for connection of the Premises to the Network;
- 2) supply Gas to the Premises at the Delivery Point;
- 3) arrange for the provision and maintenance of the Meter; and
- 4) provide or arrange associated services from time to time, including testing of the Meter in accordance with the requirements of law, disconnection and reconnection.

The works set out in paragraphs (1), (3) and (4) above shall be in accordance with current Australian gas distribution standards.

These services will be provided to the Customer on the terms of payment and other terms provided in the contract and the Retailer will use best endeavours to provide these services in accordance with the standards of service set out in the Customer Service Code (in force from time to time). However, the Retailer does not guarantee that Gas will be supplied to the Customer without interruption.

The Retailer may disconnect the supply of Gas to the Customer at the Premises, if a Customer has not paid or agreed to pay by instalments any outstanding monies owed to the Retailer for the supply of Gas to the Customer, including the amount of any Gas usage fee or any other fee allowed under the Customer Service Code (refer Clause 9).

8.2 Liability

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.

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.

The Retailer's liability, if any, under this contract is limited to the maximum extent permitted by section 64A, schedule 2 of 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, the Retailer's liability for breach of this contract is limited to (at the Retailer's 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.

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.

9. Payment for Goods and Services

The Customer must pay the Retailer for all Gas supplied to the Premises and all charges payable for all other services provided by the Retailer at the applicable prices and on the terms specified in the Customer Charter.

The Retailer will charge the Customer for gas from the date gas is turned on at the Customer premises.

The Customer will pay the Retailer a standard price as per Clause 14.

9.1 Methods of Making Payment

The following methods of payments will be available:

- a) The Retailer will offer the following bill payment options:
 - i. By mail using cheque or credit card;
 - ii. By direct debit from a cheque or credit card; and
 - iii. By paying through CentrePay.
- b) If the method described in paragraph (a) above is not possible (e.g because of holiday of illness), the Retailer may offer the following alternative bill payment options to the Customer:
 - i. Payment in advance facilities; and
 - ii. Redirection of the Customer's bill as requested by the Customer.

10. Unpaid Bills

If the Customer does not pay the full amount payable by the due date, the Retailer can:

- a) charge the Customer interest on the amount the Customer has not paid (clause 10.1 explains how we set the interest rate level), and
- b) turn off the Customer's gas supply, subject to the conditions under Clause 28.2; and
- c) charge the Customer a fee (as per Clause 10.1) for each overdue notice the Retailer sends the Customer, which shall not exceed the stipulated charges under Clause 5.6 (3) of the Gas Customer Code 2010.

Customers identified as experiencing financial hardship will be offered access to one of the following payment arrangements as specified in the Retailer's hardship policy:

- i. Additional time to pay, and/or
- ii. Other arrangements; and/or

iii. Instalment payment plan.

10.1 Interest Rate

If you do not pay your bill by the due date and we have not agreed an alternative payment arrangement with you (e.g. instalment plan), you may be charged a late payment fee of \$8.80, including GST. If your payment is more than 30 days late, you may also be charged interest at a rate equal to three (3) percentage points above the quoted rate for a one (1) month bank bill quoted by one of the Commonwealth Bank of Australia, Australia and New Zealand Banking Group Limited or National Australia Bank Limited.

10.2 Debt recovery

If the Customer has fallen behind in payments and has not made arrangements with the Retailer for payment of unpaid bills, the Retailer may hand the Customer's debt over to a debt collector.

If the Customer is legally bound to pay or repay money under this contract, the Customer is expected to meet that obligation.

The Retailer's debt collectors shall take reasonable steps to arrange with the Customer for the repayment of a debt. The Customer will need to discuss the Customer's debt with collectors. If the Retailer's debt collectors have not been able to contact the Customer, they may:

- a) visit the Customer in person;
- b) contact the Customer at work; and
- c) contact the Customer's family and friends to find out where the Customer is.

The Retailer's debt collectors will adhere to the provisions of Schedule 2 section 50 of the Australian Competition and Consumer Act 2010 that places limits on the conduct of collectors to protect the Customers from unfair or intimidating behaviour.

11. Payment Security

The Retailer may require that the Customer provide the Retailer with adequate security against the Customer's future gas bills before connection to supply or continuation of supply.

The payment security is applicable where the Customer is:

- a) new to a supply address and do not have a satisfactory established account payment record in the same name at another supply address; or
- b) new to a supply address and do not have an acceptable credit reference; or
- c) gas has been turned off in accordance with clause 10.

The Customer may elect to provide the security as either:

- (i) A payment deduction authority for the Retailer to deduct payment for bills from a nominated credit card or bank account; or
- (ii) Refundable advance (refer clause 12); or
- (iii) Other payment arrangement agreed by the Retailer.

12. Refundable Advance

The amount of the refundable advance shall be no greater than 1.5 times the average bill if you are on quarterly billing. If you are on monthly billing the refundable advance shall be no greater than 2.5 times the average monthly bill. Average billing shall be calculated with reference to the consumption of similar Customers or business types.

The refundable advance will be kept in a separate trust account which will be separately identified in the Retailer's accounting records. Interest will accrue on the refundable advance at the bank bill rate of the Commonwealth bank. Interest will accrue daily and will be capitalised every 90 days.

The Retailer will only use the refundable advance (plus any accrued interest) to offset any amount owed by the Customer to the Retailer:

- a) If the Customer has failed to pay a bill resulting in disconnection of the gas at his address; and/or
- b) If the Customer does not pay the final bill;
- c) If the Customer defaults on a bill and comes to an agreement with the Retailer regarding the refundable advance to avoid possible disconnection; or
- d) At the request of a Customer who is vacating the supply address or requesting disconnection of supply to the supply address.

Where the Retailer uses the refundable advance in accordance with this clause, the Retailer shall provide the Customer with an account of its use and pay the balance (if any) of the refundable advance together with remaining interest to the Customer within 10 business days.

Where the Customer has provided a refundable advance as security in accordance with this clause and the customer have completed two years of payment of the Retailer's bills by the due date of the initial bill, the Retailer will, within 10 business days, inform the Customer of the amount of the refundable advance including any interest payable (at the rate payable by the Commonwealth bank bill rate of the same amount) and credit the Customer account unless otherwise instructed by the Customer.

The Retailer can turn off the customer gas if the Customer has not paid the refundable advance in accordance with clause 10. Before the Retailer turns off the Customer gas for this reason, the Retailer will give the Customer a written disconnection notice 5 business days from the date of receipt of notice, before turning off the Customer gas (the 5 days shall be counted from the date of receipt of the notice).

13. Bill Complaints, Undercharging and Overcharging

13.1 Bill Complaints

You may request us to review a bill if you think the bill is incorrect. If there has been an error in a bill, we will correct the error by amending your next bill. If we decide the bill is correct you may request a meter test and pay a meter test fee which is refundable if the meter is found to be faulty. If we determine that the bill is incorrect we will refund any amount overpaid or request any amount underpaid as described under Clauses 13.2 and 13.3.

13.2 Undercharging

If the Retailer undercharges the Customer because of an error, including a metering error, then the Retailer can ask the Customer to make a correcting payment, but:

- a) if the Customers are paying a residential price, the correcting payment will only relate to errors for (at most) the 12 months before the Customer's most recent bill; and
- b) the Retailer will show the correcting payment as a separate item in the Customer bill, with an explanation; and
- c) the Retailer will not charge the Customer interest on the correcting payment.

13.3 Overcharging

If the Retailer overcharges the Customer because of an error, including a metering error, then the Retailer will:

- a) tell the Customer within 10 business days after the Retailer discover the overcharging; and
- b) give the Customer a correcting refund; and
- c) not pay the Customer interest on the correcting refund.

If requested, we will let you pay the amount undercharged in instalments over the same period of time as the undercharging occurred.

14. Fees and Charges

The Retailer publishes all fees and charges, which sets out charges including establishment fees, the charges for the supply of Gas, disconnection and reconnection fees and other services provided under this contract as well as any minimum charges and how the Retailer calculates charges. The Retailer shall give notice of such fees and charges in the Government Gazette, local newspaper in Esperance or a postal notice to each customer. Copies are also available on request from the Retailer.

The key fees payable by the Customer for the supply of Gas are as follows:

- (a) a supply charge, set at a fixed rate per month (as varied from time to time) as specified in the Customer Charter;
- (b) gas usage charge, calculated at a fixed rate (as varied from time to time) as specified in the Customer Charter, and determined by the Gas consumed, calculated on a monthly basis; and
- (c) a connection/reconnection fee, set at a fixed rate (as varied from time to time) as specified in the Customer Charter and payable upon connection/reconnection to the Network.

The Retailer can also charge the Customer the following fees in addition to the above key fees:

- i. account application; and
- ii. meter testing; and
- iii. overdue notice; and
- iv. final meter readings; and
- v. turning off your gas in some circumstances; and
- vi. turning your gas back on in some circumstances; and
- vii. removing or physically disconnecting the meter; and
- viii. for replacing or physically reconnecting the meter.

Any variation in the change of such charges or additional charges will not take effect until the Retailer has given notice of such changes through the following:

1. advertise the changes in the local newspaper in Esperance; and
2. place details of the changes on the Retailer website; and
3. post the Customer a notice of the changes, either with the Customer's next bill or separately.
4. in addition to the notification under paragraphs (1), (2) and (3) above, the Retailer shall give notice to each of its customers affected by the variation in its tariffs as soon as practical after the variation is gazetted or published and, in any event, no later than the next bill in the Customer's billing cycle.

The Customer must pay any goods and services tax payable on any supply made under the contract.

There are two types of standard price; residential price and non-residential price. Your bill will show which price you are paying.

Unless you qualify to pay the residential price, you must pay the non-residential price. To qualify to pay the residential price, the supply address must be a "dwelling", and you must use your gas only for residential use. A "dwelling" is a house, flat, home unit or other place of residence.

We can change any standard price or fee, and add a new fee, from time to time (in accordance with the *Gas Tariff Regulations*). When we do so, we will publish the changed or new price or fee and the date from which the change commences. The price or fee will change on the published date.

The Retailer may conduct a review of the tariff at any time if any of the following events occur:

- (a) any expansion of the network outside area "A" shown on the gas reticulation licence area.
- (b) there is a material or significant change in the market, economic, political or general regulatory conditions or circumstances from those which, at the Effective Date, are forecast and assumed will exist for the duration of the Access Arrangement and Tariff.
- (c) there is a change in the provisions or administration of any Act or other law which necessitates a review of the Tariff.

15. Billing and Accounts

15.1 General

The Retailer shall separately itemise the following charges on its bill:

- I. any service to property charge; and
- II. any natural gas usage charge; and
- III. any other charge in connection with the supply of natural gas, such as a reconnection fee or a charge for services charge for services provided, either at the request of the Customer or due to the failure of a Customer to perform an obligation.

Where a Retailer provides goods and services additional to those referred above, the Retailer may bill those goods or services separately. Where the Retailer chooses not to bill separately, unless the Customer and Retailer have agreed to different terms and conditions, the Retailer shall:

1. include the charges for such goods and services as separate items in its bill together with a description of those goods and services; and
2. apply payments received from a Customer as directed by the Customer; and
3. where a Customer does not direct how the payment is to be allocated, the Retailer shall apply the payment:

- i. unless (ii) applies, to the items referred to in paragraphs (I), (II) and (III) above, before applying any portion of it to the additional goods or services or;
- ii. if such goods or services include electricity, to the charges referred to in paragraphs (I), (II) and (III) above and the charges for electricity in equal proportion before applying any portion of it to any other such goods and services.

The Retailer may issue accounts three monthly or monthly or as otherwise agreed (Billing Period) setting out amounts payable by the Customer. Such accounts will show:

- (a) Customer's supply address, relevant mailing address and account number;
- (b) 24 hour contact telephone number for faults and emergencies;
- (c) telephone number for billing and payment enquiries;
- (d) payment date for the account;
- (e) dates and times of the meter reading or estimates at the start and end of billing period;
- (f) meter readings or estimates at the start and end of billing period;
- (g) number of units of Gas used or estimated to be used during the billing period;
- (h) price or prices which applied to the supply of Gas to the Customer;
- (i) the meter or property location number;
- (j) amount due;
- (k) GST component payable on the supply of Gas to the Customer;
- (l) any other fees or charges for the billing period and details of the service(s) provided;
- (m) amount of arrears or credit;
- (n) interest rate charged on any arrears;
- (o) summary of the payment methods and instalment payment (as described under clause 15.4) options set out in the Customer Service Charter;
- (p) reference to any concessions available to the residential Customer by either the Retailer or the Government;
- (q) availability, upon payment of a charge, of Meter Equipment testing and the refund of the testing charge if the Meter Equipment is found to be inaccurate;
- (r) the availability of interpreter services;
- (s) telephone number if the Customer is experiencing financial difficulties;
- (t) details of any refundable advance paid by the Customer to the Retailer; and
- (u) any other information the Retailer deems relevant.

A failure by the Customer to pay the total amount of a Customer's account by the due date will entitle the Retailer to:

- (a) charge interest on the amount that has not been paid, at the Interest Rate;
- (b) disconnect supply in accordance with clause 28;
- (c) charge the Customer a fee for each overdue notice sent to the Customer; and
- (d) charge a reconnection fee if the supply of Gas to the Customer is disconnected due to a default by the Customer under this contract and that default is remedied by the Customer.

If the Customer notifies the Retailer that they are experiencing difficulties in paying a bill or requires payment assistance, the Retailer will offer the Customer instalment payment options, the right to have a bill redirected to a third person, information about, and referral to, government assistance programs and information on independent financial counselling services.

15.2 Customer Applying for Supply from New Gas Connection

In addition to clause 15.1, the Retailer shall also state the date and time from when the Customer will be charged for gas supplied to the new supply address. The date and time shall be from when the new meter is connected to the Customer supply address.

15.3 Customer Applying for Supply from Existing Gas Connection

If a final meter reading is not carried out on the day that the previous customer left the supply address, the Retailer shall estimate the quantity of gas for billing the previous Customer, based on the previous Customer's prior consumption history.

15.4 Payment by Instalments

A Retailer shall offer the following payment options to a residential Customer:

- a. an instalment plan under which a Customer may make payments in advance towards the next bill in the Customer's billing cycle; and
- b. an instalment plan under which the Customer may pay arrears (including any disconnection or reconnection charges) and continuing usage.

A Retailer may offer these instalment plans or other payment options to business Customers or to Customers generally.

16. Estimated Billing and Accounts

16.1 General

If the information the Retailer needs to prepare an accurate bill is not available in time, the Retailer may render an account on the basis of estimated quantities of gas supplied to the Premises if the Customer's:

- a) supply address is not under an un-metered tariff or an installed prepayment meter;
- b) reading could be used under Clause 16.2; and
- c) reading could not be read under Clause 16.3.

Subject to paragraphs (a) to (c) above, the Retailer shall:

- i. base a Customer's bill on a reading of the meter at the Customer's supply address; and
- ii. read the meter at the Customer's supply address at least once in any 12 months.

Any account rendered by the Retailer to the Customer using estimated Gas usage amounts will indicate that the Retailer has used such estimated figures.

When information becomes available regarding the Customer's meter readings for the period where estimates were used, the Retailer will adjust the Customer's account for any overcharge or undercharge.

16.2 Ability to use a Customer's reading

The Retailer may, at its discretion, accept a Customer's reading as its own reading and shall not make any adjustment to the bill for the billing cycle based upon this reading, where the Retailer subsequently reads the meter and finds an error in the Customer's favour.

16.3 Inability to use a Customer's reading

Where a Retailer is unable to base a bill on a reading of the meter at a Customer's supply address because:

- a) access is denied as a result of action by the Customer, a third party, weather conditions, industrial dispute or other reasons beyond the Retailer's control;
- b) the Customer is vacating the supply address and requires 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,

The Retailer may provide the Customer with an estimated bill based on:

- i. The Customer's reading of the meter;
- ii. The Customer's prior billing history; or
- iii. Where the Customer does not have a prior billing history, the average usage of natural gas at the relevant tariff; or the usage for the type of natural gas installation or the average usage at the supply address.

16.4 Subsequent ability to read Customer meter

- a) Where the Retailer has provided a Customer with an estimated bill pursuant to Clause 16.3 (a), (b) and (c) and the Retailer is subsequently able to read the meter, the Retailer shall adjust the estimated bill in accordance with the meter reading unless the estimated bill was used to finalise the Customer's account.
- b) Where a Customer has denied access to a Retailer for the purpose of reading a meter at the Customer's supply address and subsequently requests the Retailer to replace an estimated bill with a bill based on a reading of the meter, provided the Customer allows access to the meter, the Retailer shall comply with the request and may impose an appropriate charge for doing so.

17. Calculation of Consumption

The Retailer may calculate the Customer's:

- a) energy consumption by the measurement of volume (in cubic metres or other units) through the meter and applying the heating value to represent the bill in energy units (e.g. megajoules, kilowatt hours etc.); or
- b) consumption through the measurement of gas from a master meter and utilise other measurement devices to calculate bills for individual usage of a product.

18. Customer Metering

18.1 Metering

Ownership of the Meter Equipment will not pass to the Customer. The Customer must not, or allow any other person to, tamper with, adjust, disconnect, by-pass, interfere with or otherwise damage or render inoperable or inaccurate the Meter Equipment or take or attempt to take Gas before it reaches the Meter Equipment. The Customer must immediately notify the Retailer after becoming aware of any circumstances which might reasonably be expected to affect the accuracy of the Meter Equipment.

18.2 Metering Reading

Subject to there being any proven inaccuracy in the Meter Equipment, the Customer acknowledges and agrees that the readings on the Meter Equipment taken by the Retailer or its nominee at the beginning and end of a Billing Period, is conclusive evidence of the volume of Gas the Customer has used during the Billing Period. In the event there is a proven inaccuracy in the Meter Equipment, the Retailer will change the meter at no cost to the Customer, provided the inaccuracy was not caused by the Customer.

18.3 Meter Testing

The Customer may request the Meter Equipment be tested to establish whether there is any inaccuracy in the Meter Equipment readings. The Retailer will use reasonable endeavours to respond to the Customer within 7 business days of the date of receipt by the Retailer of the request. If the Meter Equipment is found to be inaccurate, the Retailer will:

- a) replace the Meter Equipment in accordance with clause 18.2 of this contract;
- b) adjust the Customer's account for the amount of any undercharge or overcharge for the Billing Period in which the inaccuracy was proven, calculated in accordance with clause 16 of this contract: and
- c) not charge the Customer for testing the Meter Equipment.

If the Meter Equipment is not found to be inaccurate, the Customer must pay a testing fee, as described in the Customer Charter.

19. Customer Obligation to Notify

The Customer must advise the Retailer as soon as possible if:

- a) there is a change in the person responsible for paying your bills; or
- b) there is a change in the Customer billing address or contact details; or
- c) the Customer changes the way the Customer uses gas (for example if the Customer is a paying a residential price and wishes to use gas for a non-residential use); or
- d) the Customer changes something at the supply address which makes the Retailer's access to the meter more difficult; or
- e) the Customer is planning a change to the Customer's equipment which might affect the quality or safety of any gas supply to the Customer or anyone else; or

- f) the Customer becomes aware of any gas leak or other problem with the network equipment, at or reasonably close to the supply address.

20. Unauthorised Use of Gas

The Retailer may immediately disconnect the Premises without notice, if the Customer:

- a) commits a fraud relating to the supply of Gas to the Premises; or
- b) in the event the Customer procures the supply of Gas to the Premises illegally, in breach of this contract or the Customer Service Code.

21. Responsibility and Ownership of Gas Supply Equipment

The Network Operator's equipment is everything before (upstream of) the point where gas leaves the meter. The gas distribution operator will inspect and look after the network equipment.

The Customer's equipment is everything after (downstream of) the point where gas leaves the meter. The Customer must inspect and look after the Customer's equipment.

The Customer's obligations to the Retailer are to:

- a) not misuse natural gas, sell or redirect it to any other person, tamper with or bypass the meter, or use natural gas for a different purpose than that agreed with Retailer
- b) not allow any other person to misuse natural gas, sell or redirect it to any other person, tamper with or bypass the meter, or use natural gas for a different purpose than that agreed with Retailer
- c) keep the natural gas installation at the Customer's address in safe and good condition, protect Network Operators's equipment from damage and interference, and only allow an accredited natural gas installer to perform work on the Customer's system
- d) give the Retailer a safe, convenient and unhindered access to the supply address and the meter
- e) not turn the gas on at the meter without the Retailer's permission, if the gas has been turned off by the Retailer or gas network operator.

22. Accessibility to Customer Premises

The Customer must let the Retailer or its representative have safe and unrestricted access to the supply address when there is a need:

- a) to read the meter; or
- b) to inspect or work on any network equipment; or
- c) to turn off the Customer gas supply if the Retailer thinks it necessary; or
- d) to inspect the Customer equipment; or
- e) for any other reason having to do with the contract.

Provided that, where reasonable to do so, the Retailer first gives at least 24 hours' prior written notice of the day, time and purpose for the attendance on the Premises, except:

- i. for a routine meter reading; or
- ii. in an emergency; or
- iii. if there is suspicion that gas is being used illegally at the supply address (for example if the Retailer suspects that the Customer is bypassing the Customer meter).

An employee or agent of the Retailer coming onto the Premises must display identification that he or she is an employee or agent of the Retailer.

23. Connection of Customer to Gas Supply

23.1 Supply and metering equipment

The Retailer shall, in accordance with distribution standards:

- a) provide, install and maintain equipment for the supply of natural gas to the Customer premises; and
- b) provide, install and maintain metering and necessary ancillary equipment at a location at the Customer premises suitable to the Retailer, giving due consideration to the Customer's wishes.

23.2 Existing Connections

The Retailer shall use its best endeavours to connect the Customer at a supply address previously supplied by the Retailer within one business day or within a period agreed with the Customer, subject to the following requirements:

- a) adequate supply being available at the required volume and pressure at the boundary of the Customer premises;
- b) the natural gas installations at the Customer premises complying with regulatory requirements; and
- c) the meter at the Customer premises being available for use by the Retailer where necessary.

The obligation of the Retailer to connect the Customer within one business day is subject to the Customer complying with the following requirements:

- i. the Customer making applications (in person, by telephone or in writing) and provide acceptable identification as required by the Retailer;
- ii. if requiring connection within one business day, the Customer making the application by 3 pm on the previous business day;
- iii. the Customer agreeing to pay the Retailer all relevant fees and charges;
- iv. the Customer providing contact details for billing purposes;
- v. if the request is made in respect of a rental property, the Customer providing contact details for the property owner or the owner's agent;
- vi. if required by the Retailer, the Customer satisfying the Retailer that necessary safe, convenient and unhindered access to the Customer premises, the meter and the natural gas installation is available;
- vii. if required by the Retailer, the Customer providing the Retailer with information on the number and types of appliances installed, number of household occupants and anticipated usage of appliances;
- viii. if required by the Retailer, the Customer providing a refundable advance, bank guarantee or entering into a payment arrangement; and
- ix. the Customer not having an outstanding debt relating to the supply of natural gas or any other form of gas supplied by the Retailer to the Customer at a previous supply address (other than a debt the subject of a dispute, or for which repayment arrangements have been made).

The Retailer or gas distribution operator shall connect the Customer's premises in accordance with the distribution standards.

23.3 New Gas Connections

A Retailer or gas distribution operator shall use its best endeavours to make supply available to a new Customer premises on the date agreed with the Customer or, where no date is agreed with the Customer, the Retailer shall connect the new Customer premises within 20 business days from the date of application. This supply is subject to:

- a) adequate supply being available at the required volume and pressure at the boundary of the Customer premises; and
- b) the natural gas installation at the Customer premises complying with regulatory requirements.

The obligation of the Retailer to connect supply to the Customer premises is subject to the Customer complying with the following requirements:

- i. the Customer shall make application in person, by telephone or in writing and provide acceptable identification as required by the Retailer;
- ii. if required by the Retailer, the Customer shall ensure that the notices of installation or completion of natural gas installation work from a gas installer are provided to the Retailer;
- iii. if required by the Retailer, the Customer shall satisfy the Retailer that necessary safe, convenient and unhindered access to the Customer premises, the meter and the natural gas installation is available;
- iv. if the request is made in respect of a rental property, the Customer providing contact details for the property owner or owner's agent;
- v. if required by the Retailer, the Customer shall provide the Retailer with estimated natural gas load information for the Customer's proposed use at the Customer premises;
- vi. the Customer shall agree to pay the Retailer all relevant fees and charges;
- vii. the Customer shall provide contact details for billing purposes;

- viii. if required by the Retailer, the Customer shall provide a refundable advance, bank guarantee, or enter into a payment arrangement; and
- ix. the Customer shall not have an outstanding debt relating to the supply of natural gas or any other form of gas supplied by the Retailer to that Customer at a previous supply address (other than a debt the subject of a dispute, or for which repayment arrangements have been made).

And in any agreement between the Retailer and the Customer, the Retailer may impose these obligations on the Customer.

24. Planned Maintenance and Supply Interruptions

Gas supply may, from time to time, be suspended when it is necessary for work to be undertaken on the Network provided that the Retailer first gives at least 4 business days prior written notice of the duration and nature of the maintenance.

The Retailer will use its best endeavours to minimise interruptions to Gas supply and in the event Gas supply is interrupted, the Retailer will procure the resumption of Gas supply as soon as possible.

25. Emergencies

The Retailer may, without first giving notice, disconnect the supply of Gas to the Premises in the event of an emergency or if the Retailer needs to do so to reduce the risk of fire or to comply with a law.

Customers may contact the Retailer on the 24 hour emergency line, the details of which are noted on each bill, to obtain information regarding the circumstances surrounding the emergency and when supply will be restored, and the Retailer will, to the best of its knowledge, provide the Customer with such information as is reasonable in the circumstances.

Once the emergency is over, the Retailer will use its best endeavours to resume Gas supply to the Customer, as soon as possible.

26. Health or Safety Reasons

The Retailer or gas distribution operator can always turn off the Customer gas for other health or safety reasons. Except in the case of an emergency, or where there is a need to reduce the risk of fire or where relevant regulatory requirements require it, a Retailer or gas distribution operator shall not disconnect a Customer's supply address for a health or safety reason unless the Retailer or gas distribution operator has:

- a) given the Customer a written notice explaining what the health or safety problem is; and
- b) given the Customer up to 5 business days from the date of receipt of the notice to fix the problem, if the Retailer thinks it is a problem the Customer can fix (the 5 days shall be counted from the date of receipt of the notice); and
- c) at the expiration of those 5 business days given under clause 27 (b), given the Customer a further 5 business days' notice by way of a written disconnection warning, of its intention to disconnect the Customer (the 5 days shall be counted from the date of receipt of the notice).

The Retailer can charge the Customer a fee for turning off the Customer's gas if the problem is the Customer's fault or is in the Customer's equipment.

The Retailer will turn the Customer's gas on again when the Retailer is satisfied that the Customer has fixed the problem. The Retailer can charge the Customer a fee for turning the Customer's gas back on if the problem was the Customer's fault or was in the Customer's equipment.

27. Disconnection of Supply

27.1 Turning off Customer Supply

In general, this refers to the operator of the gas distribution network that does so. Where a disconnection warning has been issued to the Customer as per clause 28.2 (2), (3), (4), (5) & (6) the Retailer will provide the Customer with relevant information regarding available dispute resolution process as described under clause 39.3.

27.2 Discontinuation and Disconnection

Supply of Gas to the Premises may be discontinued or disconnected as follows:

- 1. The Customer may request the Retailer disconnect or discontinue Gas supply to the Premises by giving prior written notice to the Retailer and specifying a disconnection date not earlier than 5 business days from the date of the notice. The Retailer will use its best endeavours to disconnect

supply, arrange for a final reading to be taken at the supply address and finalise the Customer's accounts in accordance with the Customer's request. The Customer shall provide the Retailer a forwarding address to which a final bill may be sent. Where a:

- a) Customer vacates the Premises at any time after the specified disconnection date and the Retailer has not disconnected Gas supply to the Premises, the Customer will not be liable to pay for any Gas supplied to the Premises after the vacation date.
- b) previous Customer vacates the Premises and a new Customer enters into a contract with the Retailer, the previous Customer is not required to pay for any gas supplied at the Premises after the time when the new Customer's obligation to pay for gas supplied under the new contract takes effect.
- c) Customer gives notice of vacating the Premises, the Retailer may require the Customer to remain responsible for paying for gas supplied to the Premises and otherwise remain responsible to the Retailer in respect of the supply to the date of when the Customer vacates the Premises, unless the Customer can demonstrate to the Retailer that they were forced to vacate the Premises earlier (eg an eviction).
- d) Customer does not give notice to vacate the Premises, the Retailer may require the Customer to remain responsible for paying for natural gas supplied to the Premises and otherwise remain responsible to the Retailer in respect of the supply until 3 business days notice is given, or until a new Customer commence to take supply at the Premises, whichever occurs first.

2. The Retailer may, without further notice, (without prejudice to any other rights or remedies as provided for in this contract or at law) disconnect the supply of Gas to the Premises, if:
 - a) the Customer has not paid or adhered to the Customer's obligations to make payments in accordance with an agreed instalment payment plan relating to the service to property charge, Gas usage charge or other charge of the kind allowable under the Customer Service Code, whether those costs were incurred at the Premises or any of the Customer's previous supply addresses;
 - b) the Retailer has given a written notice (i.e. reminder notice) to the Customer not less than 14 business days after the day on which the bill was issued advising the Customer that payment is overdue and requiring payment to be made on or before the day specified in the reminder notice (being a day not less than 20 business days after the billing day);
 - c) payment is not made on or before the day specified in the reminder notice, and the Retailer has given a further written notice (i.e. disconnection notice) to the Customer not less than 22 business days after the billing day advising the Customer that disconnection will occur unless payment is made on or before the day specified in the disconnection warning (being a day not less than 10 business days after the day on which the disconnection warning is given);
 - d) used its best endeavours to contact the Customer personally, by facsimile or by telephone to discuss the overdue account;
 - e) the Retailer has offered the Customer an extension of time to pay the bill beyond the original due-by date (which amount may include interest);
 - f) the Customer has not provided the Retailer a written statement from a medical practitioner to the effect that supply is necessary in order to protect the health of a person who lives in at the Customer's premises and the Customer has not entered into arrangements acceptable to the Retailer in relation to payment for gas supplied.
 - g) the Retailer has given a written notice to the Customer of its intention to disconnect or cease to supply Gas within 5 business days of the date of receipt of that notice, if the Customer does not pay or adhere to its obligations to make payments in accordance with an agreed instalment plan; and
 - h) the Customer has failed to respond to such notice.
3. The Retailer may, without further notice, disconnect the supply of Gas to the Premises or may notify the gas distribution operator that it no longer supplies gas to a Customer's Premises, if the Customer fails to comply with clause 21(d) of this contract or deny the Retailer access to the Customer supply address for the purposes of reading the meter for the purposes of issuing 3 consecutive bills in the customer's billing cycle. This is provided the Retailer:

- a) gives the Customer an opportunity to offer reasonable alternative access arrangements;
- b) on each of the occasions it was denied access, given to the Customer written notice requesting access to the meter at the supply address;
- c) used its best endeavours to contact the Customer personally, or by facsimile, mail or by telephone; and
- d) given the Customer, by way of a written disconnection warning, 5 business days notice of its intention to disconnect the Customer (the 5 days shall be counted from the date of receipt of the disconnection warning).

4. In the circumstances where the residential Customer, because of lack of sufficient income or other means on the part of that Customer, is unable to pay a Retailer's service to property charge or gas usage charge or other charge of the kind allowable (under AGA 755 code, clause 5.1.1.2), the Retailer shall not disconnect the supply to the Customer's supply address or notify the gas distribution operator until:

(a) the Retailer has:

- i) offered the Customer alternative payment options;
- ii) given the Customer information on government funded concessions;
- iii) used its best endeavours to contact Customer personally, or by facsimile or mail, or by telephone; and
- iv) given the Customer, by way of a written disconnection warning, 5 business days notice of its intention to disconnect or cease supplying gas to the customer (the 5 days shall be counted from the date of receipt of the disconnection warning); and

(b) the Customer has:

- i) refused or failed to accept the offer within the time specified by the Retailer; or
- ii) accepted the offer, but refused or failed to take any reasonable action towards settling the debt within the time specified by the Retailer.

A Retailer shall not disconnect the supply to a business Customer address or notify the gas distribution operator that it no longer supplies gas to a customer at a supply address unless:

(a) the Retailer has:

- i. used its best endeavours to contact the Customer personally, or by facsimile or mail, or by telephone;
- ii. offered the Customer an extension of time to pay beyond the original pay-by date on terms and conditions (which may include interest at a rate payable by the Commonwealth bank bill rate of the same amount); and
- iii. given the Customer, by way of a written disconnection warning, 5 business days notice of its intention to disconnect or cease supplying gas to the customer (the 5 days shall be counted from the date of receipt of the disconnection warning);

and

(b) the Customer has:

- i) refused or failed to accept the offer within a time (not less than 5 business days) specified by the Retailer; or
- ii) accepted the offer, but has refused or failed to take any reasonable action towards settling the debt within a time (not less than 5 business days) specified by the Retailer.

5. In the circumstances set out in clause 25 where the Retailer must disconnect supply for planned maintenance, the Retailer may not suspend the supply of Gas to the Premises unless the Retailer has used its best endeavours to give the Customer notice of its intention to suspend, at least 4 business days before the date of such suspension.

6. In the circumstances set out in clauses 20, 26 or 27, the Retailer may immediately arrange for the supply of Gas to the Premises to be suspended or cut-off without prior notice to the Customer, provided that the procedures set out in those clauses are complied with.

The Customer must assist the Retailer to disconnect supply and acknowledges that at all times the Meter Equipment is the property of the Retailer and hereby gives the Retailer permission to enter upon the Premises to remove any property specified under this contract to belong to the Retailer.

Where the supply of Gas is disconnected at the Customer's request in accordance with paragraph (1) or where the Retailer must disconnect the supply of Gas for planned maintenance in accordance with paragraph (5), the Customer will not be liable for any costs associated with the disconnection of Gas supply to the Premises.

However, where the supply of Gas is disconnected due to a default or act or omission of the Customer, including the circumstances described in paragraphs (2), (4) and (6), the Customer must pay all reasonable costs associated with the disconnection of the supply of Gas to the Customer.

The Retailer will not disconnect supply of Gas to the Premises:

- (a) if the Customer fails to pay a bill where the amount outstanding is less than an average bill over the past 12 months and the Customer has, in accordance with the Customer Service Code, agreed with the Retailer to repay the amount;
- (b) where the Customer has made a complaint, directly related to the reason for the proposed disconnection, to an external dispute resolution body and the complaint remains unresolved;
- (c) Where the Customer has made an application for a government concession or grant and the application has not been decided;
- (d) where the Customer has failed to pay an amount on a bill which does not relate to the service to property charge, the Gas usage charge or other charge of the kind contemplated by the Customer Service Code; or
- (e) after 3 pm on a weekday or on a Friday, on a weekend, on a public holiday or on the day before a public holiday except in the case of a planned interruption; or
- (f) except in circumstances where disconnections is required under the Gas Standards Act 1972; or
- (g) if there are medical reasons for gas to continue to be supplied in order to protect the health of a person who lives at the Customer's supply address and which are supported by a written statement from a medical practitioner and the Customer has entered into arrangements acceptable to the Retailer in relation to payment for gas supplied.

28. Removal of Meter after Disconnection

When the Retailer has turned off the Customer's gas, the Retailer can remove the meter or physically disconnect the meter.

The fees the Retailer charges the Customer for turning off the gas and turning the gas back on can include separate fees for removing or physically disconnecting the meter, and for replacing or physically reconnecting the meter.

29. Reconnection after Disconnection

Where the Retailer has exercised its right to disconnect supply of Gas to the Premises pursuant to:

1. clause 22 and the Customer provides access to the Meter Equipment; and
2. clause 28 and the Customer has ceased to so obtain supply and has paid, or made an arrangement to pay, for the supply so obtained.

In regard to condition (2) above, the Retailer will reconnect supply if:

- a) within 10 business days after disconnection for non-payment of a bill, the Customer pays the overdue amount or makes arrangement for its payment; or
- b) within 10 business days after disconnection for denial of access to a meter, the Customer provides access to the meter; or
- c) within 10 business days after disconnection for unlawful consumption of gas, the Customer pays for the gas consumed; or
- d) within 10 business days after disconnection for refusal to pay a refundable advance, the Customer pays the refundable advance; or
- e) within 20 business days after disconnection in an emergency situation or for health, safety or maintenance reasons, the situation or problem giving rise to the need for disconnection has been rectified,

and if the Customer has paid any applicable reconnection fee.

The Retailer will reconnect the supply of Gas to the Premises subject to the Customer Service Code and if the Customer makes a request for reconnection and pays the Retailer for its reasonable reconnection fee.

29.1 Time and Response for reconnection

Where a Retailer:

- a) is under an obligation to reconnect a Customer and the Customer makes a request for reconnection before 3 pm on a business day, the Retailer shall use its best endeavours to make the reconnection or cause the gas distribution operator to make the reconnection on the day of the request;
- b) is under an obligation to reconnect a Customer and the Customer makes a request for reconnection after 3 pm on a business day, the Retailer shall make the reconnection or cause the gas distribution operator to make the reconnection as soon as reasonably possible on the next business day;
- c) is under an obligation to reconnect a Customer and the Customer makes a request for reconnection after 3 pm on a business day and before the close of normal business and pays the Retailer's after hours reconnection charge, the Retailer shall make the reconnection or cause the gas distribution operator to make the reconnection on the day requested by the Customer;
- d) notifies a gas distribution operator of a request for reconnection within a reasonable time of the Retailer receiving the request for reconnection from the Customer, the gas distribution operator shall reconnect the Customer in accordance with the time periods specified in this clause 30.1.

30. Legal Requirement on Disconnection/Connection

The Retailer can turn off the Customer's gas for a period of time without notice to the Customer, if the Retailer is required by law to do so.

The Retailer will do its best to turn the Customer's gas on again as soon as possible.

There is no fee for turning off your gas or turning it back on in this instance.

31. Matters beyond the Control of Customer or Retailer

31.1 If things happen beyond Customer control

The Customer must pay the bill by the due date shown on the bill, even if something happens which is beyond the Customer's control.

Otherwise, if something beyond the Customer control happens which make the Customer breach the *contract*:

- a) the Customer must tell the Retailer immediately; and
- b) the Retailer will excuse that breach for as long as the thing beyond the Customer control lasts.

31.2 If things happen beyond the Retailer's control

If something beyond the Retailer control happens which makes the Retailer breach the *contract*, the Customer must excuse that breach for as long as the thing beyond the Retailer control lasts.

Currently the Retailer is also the gas distribution operator. However, if in the future the Retailer is not also the gas distribution operator, one of the things which can happen beyond the Retailer's control is that the gas distribution operator of that network does not transport gas. Under this scenario, the Retailer will use its contract with the gas distribution operator to try to make sure that this does not happen.

32. Termination of Contract

This contract is terminated if the Retailer procures the disconnection of the Premises at the Customer's request (other than an agreed temporary disconnection).

Either party may terminate this contract by giving not less than 3 business days prior written notice to the other party. The termination date of this contract will take effect based on the stated contract termination date shown on a written notification submitted by either party.

The Retailer can also terminate contract if the Customer:

- 1) becomes insolvent;
- 2) goes into liquidation;
- 3) commits an act of bankruptcy; or
- 4) commits a substantial breach of the contract.

The termination of the contract by the Retailer or the Customer does not have effect until:

- i. in the case of termination because the Customer has entered into another Customer contract with the Retailer, the cooling-off period (if any) for that contract expires; or

- ii. in the case of termination following disconnection, the Customer no longer has any right to reconnect under the provisions of the contract, a written law or a relevant code.

When the contract is ended by either party or because of circumstances outlined in paragraphs (1) to (4) above, on the last day of the contract the Retailer will:

- a) turn off gas; and
- b) make a final meter reading.

The Retailer will then issue the Customer with a final bill. The Retailer will also charge the Customer a fee for turning off the gas, making a final meter reading and issuing a final bill.

The Retailer or gas distribution operator can remove any network equipment at any time after the contract ends, and the Customer must let the Retailer or gas distribution operator have safe and unrestricted access to the supply address.

If the Customer wishes to start buying gas from the Retailer again, the Customer will need to apply for a new contract.

Ending the contract does not release the Customer or the Retailer from an obligation (such as an obligation to pay bills) which arose before the contract ended.

33. Successors and Assigns

The contract is personal to the Customer. The Customer must not assign, transfer, subcontract or otherwise dispose of any of the Customer rights or obligations under the contract unless with the expressed agreement of the Retailer.

The Retailer can assign the contract, without notice to the Customer, to any person or company who the Retailer believes has reasonable commercial and technical capability to perform its obligations under the contract. If the Retailer does, the Retailer will advise the Customer about the assignment, either before or as soon as is reasonably practicable after it happens.

34. Confidentiality

The Retailer will keep confidential a Customer's information in accordance with the Customer Service Code, unless:

- (a) the Customer gives the Retailer prior written consent to disclose the information to a third party;
- (b) disclosure is required to comply with any accounting or stock exchange requirement (such information disclosed will, as far as possible, be in an aggregated form);
- (c) disclosure is required to comply with any legal or regulatory requirement, or in the course of legal or other proceedings or arbitration;
- (d) the information is already in the public domain; or
- (e) the Retailer believes the Customer has used Gas illegally and must provide Customer information to the Economic Regulation Authority or the Director of Energy Safety or the Police, in accordance with clause 20 of this contract.

35. Exclusions Clause

This clause means that the Customer might not be able to get compensation from the Retailer for some losses the Customer might suffer as a result of the Retailer's actions.

The effect of this clause may be limited by law, including the Competition and Consumer Act 2010 (Cth) and the Fair Trading Act 2010 (WA), in which case it has effect only as far as the law allows. In particular, if the Customer is a consumer under the Competition and Consumer Act 2010 (Cth) and the Fair Trading Act 2010 (WA), the Retailer may be taken to have given the Customer certain consumer guarantees about the supply of goods or services (including gas) to the Customer. If the Retailer fails to comply with those guarantees, then the Customer may have statutory rights under the Competition and Consumer Act 2010 (Cth) and the Fair Trading Act 2010 (WA) against the Retailer, and the limitations set out in this clause will not limit the Retailer's liability to the Customer to the extent those statutory rights apply.

Despite anything else the contract says (other than the paragraph above), and despite anything outside the contract (other than applicable laws including the Competition and Consumer Act 2010 (Cth) and the Fair Trading Act 2010 (WA)), the Retailer will only ever be liable to the Customer for direct damage. The Retailer will not in any circumstances be liable to the Customer for indirect damage, including (but not limited to):

- i. indirect loss; or
- ii. consequential loss; or
- iii. business interruption loss; or
- iv. lost profits; or
- v. loss of an opportunity; or
- vi. the Customer's liability to other people under contracts or otherwise.

36. Special Conditions

Any special conditions of contract which the Retailer agrees with the Customer can add to, or change, these terms and conditions. Nothing in this contract obliges the Customer to agree to any special conditions.

37. Interpretation

37.1 Definitions

In these terms and conditions, unless the contrary intention is shown:

"billing period" means a period of either approximately one month, two months, or three months as determined by the Retailer, having regard to the usual billing cycle for the area in which the Premises is located; and

"business day" means a day which is not a Saturday, Sunday or public holiday in Western Australia; and

"consumer" means the consumer as defined under schedule 2 to the *Competition and Consumer Act 2010* [Cth] as in force as a law of the Commonwealth under that Act, and as in force as a law of Western Australia under the *Fair Trading Act 2010* [WA]; and

"contract" means the legally binding agreement between the Customer and Retailer, of which these are the terms and conditions; and

"Customer" means the person or entity to whom gas is (or will be) supplied under the contract; and

"Customer charter" means the Customer charter prepared by the Retailer for use in Esperance; and

"Customer service code" means the Australian Gas Association's Natural Gas Customer Service Code unless an alternative Customer service code is approved by the Economic Regulation Authority, in accordance with the trading licence, in which case it means the approved code; and

"date of receipt" means:

- a) In the case where the Retailer hands the notice to the Customer, the date the Retailer does so;
- b) In the case where the Retailer leaves the notice at the Customer's supply address, the date the Retailer does so; and
- c) In the case where the Retailer gives the notice by post, a date 2 (two) business days after the Retailer posted the notice.

"delivery point" means the point on the network at which Gas is withdrawn for delivery to the Customer as determined by the Network Operator; and

"fee" means a fee other than a standard price; and

"gas" means natural gas as that term is defined in the Gas Standards Act 1972 (WA); and

"interest rate" means the interest rate *you* pay on amounts *you* haven't paid the Retailer at an interest rate of at least 3% above the quoted rate for one month bank bills quoted by either the ANZ Bank, the Commonwealth Bank or the National Australia Bank. It is not applicable to the interest involving Refundable Advance as covered under Clause 12; and

"medical practitioner" means an individual who is registered as a medical practitioner under the Medical Act 1894.

"meter" means the equipment the Retailer has installed (or will install) at the supply address to measure the volume of gas the Customer uses (in the contract, the word "meter" includes the short lengths of gas pipe which protrude from the meter); and

"network" is defined in clause 2 of this contract; and

"network equipment" means the meter and any pipes, pressure regulators or other equipment used to transport, measure, or control gas for delivery to the Customer, before (upstream of) the point where gas leaves the meter; and

"payment deduction authority" means a verifiable consent authorising us to deduct monies from a Customer's nominated credit card or bank account in payment of energy bills; and

“**price**” means the charge for selling gas as determined from time to time and published by the Retailer and can include a fixed component and a usage component; and

“**premises**” means the supply address specified in item 5 of the Schedule under Appendix B to this contract; and

“**Retailer**” means Esperance Gas Distribution Company Pty Ltd (ABN 18 166 539 993) and includes its employees, subcontractors, agents and successors in title; and

“**security**” means either a Payment Deduction Authority or other payment arrangement agreed by the Retailer required by the Retailer as security against payment of bills; and

“**supply address**” means the address to which gas will be supplied under the contract; and

“**trading licence**” means the trading licence under the Energy Coordination Act 1994; and

“**unit**” is a measure of the amount of energy in gas, with one unit equalling 3.6 megajoules, which is the same energy as 1 kilowatt-hour or one unit of electricity; and

“**work**” includes installing, operating, maintaining, renewing and replacing any network equipment.

37.2 Other Rules of Interpretation

Interpretation Act

The Interpretation Act 1984 applies to the interpretation of these terms and conditions, and any special terms and conditions under clause 38, as though the contract were a written law, unless the contrary intention is shown.

Examples

Examples do not limit the generality of a clause.

37.3 Miscellaneous

Applicable law

The contract is entered into under Western Australian law.

No waiver

A failure, delay or partial exercise of a power or right by the Retailer is not a waiver of that power or right, and does not preclude a further exercise by the Retailer of that or any other power or right under the *contract*.

Entire agreement

The contract constitutes the entire understanding between the Customer and Retailer concerning the subject matter of the contract. This clause operates to the extent permitted by law.

Severability

If any clause of these terms and conditions is found to be invalid or not enforceable, all other clauses will continue to be valid and enforceable.

Complaints and Disputes

If a Customer believes that the Retailer has acted or omitted to act in accordance with the Customer Service Code, the Customer may make a complaint to the Retailer.

The Retailer will handle Customer disputes and complaints in accordance with its complaints handling procedure (as required under its trading licence) and on request will provide the Customer with information on the:

- a) Retailer’s complaints handling process; and / or
- b) Energy Ombudsman Scheme (EO) in which the Retailer is a member.

If the Customer is not satisfied with the Retailer’s handling of the dispute or complaint, the Customer may:

- i. raise the complaint to a higher level within the Retailer’s management structure; and
- ii. where after raising the complaints to a higher level, the Customer is not satisfied with the Customer’s response, refer the complaint to the EO.

The EO can be contacted as follows:

12th floor, St Martins Tower
44 St Georges Terrace
Perth WA 6000

Tel. (08) 9220 7588

Fax: (08) 9220 7599

Email: energy@ombudsman.wa.gov.au

Access to Information

The Customer may request from the Retailer:

- a) a copy of the Retailer's customer service charter
- b) a copy of any relevant regulations or code
- c) any information which is held by the Retailer concerning the supply of Gas to the Premises
- d) standard meter readings for the Premises connected with the Customer's accounts
- e) billing data
- f) the status of the Customer's accounts
- g) information about energy efficiency
- h) information about fees and charges payable under the contract
- i) contact details for obtaining information about Government assistance programs or financial counselling services
- j) a copy of the Retailer's hardship policy document

The Retailer will provide standard information so requested free of charge, with the exception of the provision of billing data if:

- (i) the Customer has requested the Retailer to provide billing data in the period of 12 months immediately before the date of the relevant request; or
- (ii) the period to which the billing data relates is more than 2 years before the date of the relevant request.

Notices

Unless these terms and conditions say otherwise, notice does not have to be in writing.

Any written notice given under these terms and conditions must be sent to the address for service in the contract. Notice is deemed to be given according to the following table:

Notice given by:	Notice is deemed to be given:
oral communication, in person or by telephone,	at the time of communication
personal delivery	upon delivery
posting	3 business days after posting
a facsimile	upon proof of transmission

Electronic Communications

The Retailer has the option and ability under the contract to engage in electronic communications with the Customer.

The Retailer will not start using electronic communications without agreeing with the Customer. The Retailer can set any rules about how electronic communications is to operate and what things may be communicated electronically.

APPENDIX A

INFORMATION ON CONSUMER RIGHTS TO CANCEL THIS AGREEMENT

Additional rights to cancel this agreement if this is an unsolicited consumer agreement

If this is an unsolicited consumer agreement, then in addition to the Customer’s rights described in the agreement, the Customer has a right to cancel this agreement at any time within:

1. 10 business days from and including the day after the Customer has signed or received this agreement.
2. 3 months from and including the day after the Customer has signed or received this agreement if there has been a breach of sections 73, 74, or 75 of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* [Cth].
3. 6 months from and including the day after the Customer has signed or received this agreement if there has been a breach of sections 76 or 86 or Subdivision C of Division 2 of Part 3-2 of the Australian Consumer Law contained in the *Competition and Consumer Act 2010* [Cth].

The Customer may cancel this agreement by the Retailer over the telephone or in person or by:

- a) giving a notice personally; or
- b) giving or sending a notice, in an envelope addressed to: Esperance Gas Distribution Company Pty Ltd, PO Box 2392 Esperance WA 6450; or
- c) sending an email to: Joanna.loffler@twps.com.au; or
- d) sending a fax to (08) 90721433, or
- e) requesting a cancellation to the agreement.

Please complete the forms attached below to this agreement if a cancellation is required.

Section A: Supplier Details

Name	..... Esperance Gas Distribution Company Pty Ltd
Address	..... PO Box 2392 Esperance WA 6450
Email address	.....
Fax number	.....
Details of goods or services supplied under the agreement	.....
Cost of goods or services	.....
Date of agreement	.....
Transaction number (if applicable)	.....

Section B: Consumer Details

I WISH TO CANCEL THIS AGREEMENT

Name of consumer	.....
Consumer’s address	.....
Consumer’s signature	.....
Date	.....

Note: The Customer must either return to the supplier any goods supplied under the agreement or arrange for the goods to be collected.

APPENDIX B
GAS SUPPLY REQUEST AND AGREEMENT FORM

Esperance Gas Distribution Company

ESPERANCE NATURAL GAS DISTRIBUTION SYSTEM
SCHEDULE – STANDARD FORM CONTRACT
RESIDENTIAL/ BUSINESS CUSTOMER
GAS SUPPLY REQUEST AND AGREEMENT FORM

APPLICATION NO:
GAS FITTERS ONLY:
LICENCE NO.
TICKET NO.

1. CUSTOMER DETAILS

Surname/Trading Name or Company Name:
ACN (if applicable)
First names (if individual):
Postal address (for notices/billing):
Telephone (business hours):
(after hours)
Facsimile:
Email address:
Contact Person:

2. CONNECTION HISTORY

I/We: have have not previously been a Customer:
If you have previously been a customer, please complete the details below:
Customer ID / Name:
Address:

3. PREMISES

Address of Premises to be supplied:
Date supply to commence:

4. PROPOSED USAGE OF GAS (tick appropriate box):

Domestic
Other (insert details) a)
b)
c)

5. RESIDENTIAL CUSTOMERS ONLY COMPLETE THIS SECTION

I am / We are the: Tenant Owner Builder Owner/Builder
If you are a tenant, please complete the Agent/Landlord details below:
Agent/Landlord Name
Agent/Landlord Address
Agent/Landlord Telephone
Email Address

6. BUSINESS CUSTOMERS ONLY COMPLETE THIS SECTION

Registered Company Name
ACN
Trading Name
Estimated annual gas consumption (GJ per annum)
Estimated maximum hourly load (GJ per hour)
Supply pressure required (Kilopascal)

7. IDENTIFICATION

Please complete **two** of the following:

Driver's Licence details
Driver's Licence No:
State issued:

CUSTOMER TO READ TERMS BELOW BEFORE SIGNING CONTRACT

- 1 I/We understand and agree to take and pay for gas in accordance with the terms and conditions of this Contract, as they may be varied by the Retailer from time to time.**
- 2 I/We understand that the date on which gas supply under this Contract will commence will be the date specified above, or such other date as the Retailer may nominate.**
- 3 I/We understand that the Retailer may collect personal data about me/us such as information contained in this application and any and all billing records arising from the supply of gas to me/us. I/we agree that the Retailer may exchange or disclose my/our personal data to third parties (such as the Network Operator) for purposes related to the Retailer's performance of its obligations under this Contract.**

I/We understand that by entering into this agreement, I/we are entering into a legally binding contract.

SIGNED by the Customer)
)
)
 on / /) Signature
 in the presence of:
 Name

.....
Witness
.....
Name of Witness

ACCEPTED for and on behalf)
 of **Retailer**)
 by its duly authorised officer)
 on / /) Signature
 in the presence of:
 Name, Position (Print)

.....
Witness
.....
Name of Witness