

<b>Tas Gas Networks Pty Ltd – Distribution Pipeline</b>	
<i>Standing price (Reseller) in Tasmania</i>	
Description:	Standing price applicable to Retailers to cover the provision of gas distribution services to End Users supplied by that Retailer who have residential or small-medium commercial connections (i.e., generally usage up to 10 terajoules per annum).
Residential Customer:	Fixed: \$0.59 per day per connection Variable: \$16.83 per GJ
Commercial Customer:	Fixed: \$1.48 per day per connection Variable: \$20.07 per GJ
Methodology:	Standing prices are equivalent to actual prices payable for Resellers currently. Prices ensure the ongoing recovery of efficient costs whilst maximising the utilisation of the network. TGN's standing prices for each subsequent year will be reviewed and updated 1 Jan.
Other Terms:	See <i>attached</i> : <ul style="list-style-type: none"> <li>a. Long Form Use of Systems Agreement that applies when retailing to residential and commercial customers; and</li> <li>b. Short Form Use of Systems Agreement when retailing to industrial customers that have a direct contractual relationship with Tas Gas Networks.</li> </ul>

<b>Tas Gas Networks Pty Ltd – Distribution Pipeline</b>	
<i>Standing price (Industrial Customer end user under Gas Distribution Services Agreement) in Tasmania &gt;10TJ consumption</i>	
Description:	Standing price applicable to large scale End Users / Industrial Customers (i.e., generally usage over 10 terajoules per annum). Tas Gas Networks contracts directly with the End User to allow connection to the network, and to provide gas distribution services to that End User. The End User contracts separately with a Retailer for the purchase of gas.
Contracted Quantity:	10,000 GJ Nominated Annual Quantity 50,000 GJ Nominated Annual Quantity
Price:	Fixed: \$4,685 per month Variable: \$6.77 per GJ Fixed: \$8,328 per month Variable: \$5.73 per GJ
Methodology:	<p>A multipoint standing price methodology has been chosen to best represent prices payable by large customers connecting to the network. Two representative price points are as follows:</p> <ul style="list-style-type: none"> <li>a. 10,000 GJ customer: Fixed price \$4,685/mth + variable charge \$6.77/GJ = annual effective price \$12.39/GJ</li> <li>b. 50,000 GJ customer: Fixed price \$8,328/mth + variable charge \$5.73/GJ = annual effective price \$7.72/GJ</li> </ul> <p>A multipoint methodology provides the most accurate representation of expected price outcomes, noting an alternative cost-based methodology would yield prices beyond the affordability range for customers. Tas Gas's pricing approach ensures the network recovers efficient costs and maximises total utilisation of the network.</p> <p>Whilst the multipoint price examples above are representative, the actual prices payable for customers will depend on multiple factors unique to each customer. These factors include Nominated Annual Quantity, Maximum Hourly</p>

	<p>Quantity, the investment required to connect the customer, the customer's location, and the contract term.</p> <p>TGN's standing price for each subsequent year will increase by an amount equivalent to the change in the Australian consumer price index (Weighted All Capital Cities Index).</p>
Other Terms:	<p>See <i>attached</i>:</p> <ol style="list-style-type: none"> <li>a. Gas Distribution Services Agreement (GDSA); and</li> <li>b. GDSA Standard Terms and Conditions.</li> </ol>

### Tas Gas Networks Pty Ltd – Transmission Pipeline

#### *Standing price (Reseller) in Tasmania*

Description:	<p>Standing price applicable to users of the Ulverstone transmission network. TGN considers this transmission graded pipe as part of the broader TGN distribution network and therefore the standing terms are the same as the remainder of the network.</p> <p>A direct connection to the transmission pipe would likely incur significant connection costs beyond a standard connection, including the need to reduce pressure.</p> <p>For large scale End Users / Industrial Customers (i.e., generally usage over 10 terajoules per annum), Tas Gas Networks contracts directly with the End User to allow connection to the network, and to provide gas distribution services to that End User. The End User contracts separately with a Retailer for the purchase of gas.</p>	
Contracted Quantity:	10,000 GJ Nominated Annual Quantity	50,000 GJ Nominated Annual Quantity
Price:	Fixed: \$4,685 per month	Fixed: \$8,328 per month
	Variable: \$6.77 per GJ	Variable: \$5.73 per GJ
Methodology:	<p>A multipoint standing price methodology has been chosen to best represent prices payable by large customers connecting to the network. Two representative price points are as follows:</p> <ol style="list-style-type: none"> <li>a. 10,000 GJ customer: Fixed price \$4,685/mth + variable charge \$6.77/GJ = annual effective price \$12.39/GJ</li> <li>b. 50,000 GJ customer: Fixed price \$8,328/mth + variable charge \$5.73/GJ = annual effective price \$7.72/GJ</li> </ol> <p>A multipoint methodology provides the most accurate representation of expected price outcomes, noting an alternative cost-based methodology would yield prices beyond the affordability range for customers. Tas Gas's pricing approach ensures the network recovers efficient costs and maximises total utilisation of the network.</p> <p>Whilst the multipoint price examples above are representative, the actual prices payable for customers will depend on multiple factors unique to each customer. These factors include Nominated Annual Quantity, Maximum</p>	

	<p>Hourly Quantity, the investment required to connect the customer, the customer's location, and the contract term.</p> <p>TGN's standing price for each subsequent year will increase by an amount equivalent to the change in the Australian consumer price index (Weighted All Capital Cities Index).</p>
Other Terms:	<p>See <i>attached</i>:</p> <ul style="list-style-type: none"> <li>a. Gas Distribution Services Agreement (GDSA); and</li> <li>b. GDSA Standard Terms and Conditions.</li> </ul>

# USE OF SYSTEM AGREEMENT - TASMANIA

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between

**TAS GAS NETWORKS PTY LTD**

(ABN 91 104 499 569)

and

**[INSERT]**

(ABN [INSERT])

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SCHEDULE 1

SCHEDULE 2

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THIS AGREEMENT is dated the \_\_\_\_\_ day of \_\_\_\_\_

BETWEEN **TAS GAS NETWORKS PTY LTD** (ABN 91 104 499 569)  
(TAS GAS)

AND **[INSERT]** (ABN **[INSERT]**)  
(NETWORK USER)

## BACKGROUND

- A. Tas Gas constructs and operates the Network providing gas distribution services.
- B. The Network User is a Gas retailer that wishes Tas Gas to supply Gas to Consumers on its behalf. The Network User has agreements or intends to enter into an agreement to supply Consumers with Gas.
- C. Tas Gas agrees to accept Gas from the Network User and distribute Gas on behalf of the Network User to Consumers across the Network on the terms and conditions set out in this Agreement.

## WITNESSES AS FOLLOWS:

### 1. INTERPRETATION

In this deed unless the context indicates otherwise:

#### 1.1 Definitions:

**Acceptable Credit Rating** means a credit rating of:

- (a) at least BBB- (Standard & Poors Rating Group) or equivalent as applying at the Commencement Date; or
- (b) such other rating as Tas Gas may, in its sole discretion determine from time to time;

**Agreement** means this Agreement, including the Schedules, as amended from time to time in accordance with the provisions of this Agreement;

**Allocation** means the process of attributing quantities to persons with an interest in any Gas at a shared Receipt Point;

**Allocation Agreement** means an agreement between the users of a shared Receipt Point and their appointed Allocation Agent which:

- (a) either:
  - (i) sets out the method of Allocation and terms of appointment
  - (ii) requires the parties to be bound by the Reconciliation Code; and

(iii) is expressed to be also for the benefit of each other user of that Receipt Point who is party to an Allocation Agreement in respect of that Receipt Point (so that the agreement to be bound is enforceable by any such other user); or

(b) in respect of which the Gas Code or Gas Regulation sets out the method of Allocation and terms of appointment;

**Allocation Agent** means the person responsible for Allocation in respect of particular Receipt Point

**Billing Period** has the meaning given to that term in clause 1.3 of Schedule 3;

**Charges** means the charges for the services provided by Tas Gas under this Agreement, calculated in accordance with Schedule 4;

**Commencement Date** means the commencement date set out in Schedule 1;

**Consumer** means a person whose Consumer's Equipment is connected to the Network for the purpose of receiving delivery of Gas and who is a party to an agreement for the supply of Gas from the Network User but does not include a person who has entered into a Gas Distribution Services Agreement with Tas Gas;

**Consumer's Equipment** means any Fittings and Metering Equipment of a Consumer that form part of a system for receiving Gas from the Network at a Delivery Point and conveying Gas from that Delivery Point to where the Gas may be consumed (including any Fittings owned or used by the Consumer individually or jointly with any other person, but does not include Fittings belonging to Tas Gas);

**Consumer Information Sheet** means a form containing the information required under clause 1.1 of schedule 5;

**Consumer's Premises** means

- (a) the land and buildings owned or occupied by a Consumer;
- (b) any land over which a Consumer has an easement or right to pass Fittings; and
- (c) any Fittings owned by a Consumer to convey Gas from a Delivery Point to the locations at which Gas is consumed;

**Credit Support** means credit support provided by the Network User in accordance with the credit support requirements of Schedule 2;

**Default Interest** means interest on the amount payable at the rate per annum equal to 5% above the Interest Rate from the due date for payment until the date of payment of that amount to the relevant party (both before and after judgment) accruing on a daily basis and capitalised every 30 days;

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**Delivery Point** means a point at which Gas leaves the Network and is supplied to a Consumer being the output side of the isolation valve of the Metering Equipment used for that Consumer (unless specified otherwise on a Consumer Information Sheet);

**Disconnection Event** means any of the following:

- (a) an occurrence or circumstance that may endanger persons or property;
- (b) an occurrence or circumstance that may adversely affect the proper working of the Network or Transmission System;
- (c) the Consumer fails to grant Rights of Access contained in respect of that Delivery Point;
- (d) if the Consumer's Equipment does not comply with the Network Connection Requirements
- (e) an Event of Default occurring in relation to the Network User; or
- (f) termination of this Agreement.

**Event of Default** means any of the following:

- (a) where a party fails to pay the other party any amount due under this Agreement and the default is unremedied within 10 working days after notice has been given of such non-payment by the non-defaulting party;
  - (b) where there is a material failure of a party's obligations under this Agreement and the failure is not remedied to the reasonable satisfaction of the other party within 30 working days after notice from the other party of the failure and request requiring it to be remedied;
  - (c) where a party fails on three or more occasions in any period of 12 months to meet an obligation under this Agreement within the time specified then, whether each individual failure is in itself material or not, where all such failures taken cumulatively materially adversely affect the other party's rights or the other party's ability to carry out its obligations under this Agreement or, in the case of Tas Gas, any agreement with any other person; or
  - (d) where a party:
    - (i) has a receiver or statutory manager appointed to or in respect of the whole or any substantial part of its undertaking, property or assets;
    - (ii) is deemed or presumed to be unable to pay its debts as they fall due, becomes or is deemed to be insolvent, or is in fact unable to pay its debts as they fall due, or proposes or makes a compromise, or an arrangement or composition with or for the benefit of
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its creditors or fails to comply with a statutory demand under section 459 of the Corporations Act 2001; or

- (iii) is removed from the register of companies (otherwise than as a consequence of an amalgamation) or an effective resolution is passed for its liquidation;

**Fittings** means everything used, designed or intended for use, in or in connection with the generation, conversion, transformation, conveyance, measurement, or use of Gas;

**Force Majeure** means an event or circumstance beyond the reasonable control of either party, which results in or causes the failure of that party to perform any of its obligations under this Agreement. Such events may include, but are not limited to:

- (a) Acts of God;
- (b) strikes, lockouts, or other industrial disturbances;
- (c) acts of a public enemy, declared or undeclared war, threats of war, terrorist acts, blockades, revolution, riots, insurrection, civil commotion, public demonstrations, sabotage, acts of vandalism, epidemics or disease;
- (d) acts of animals, lightning, fire, storms, floods, earthquakes, landslides, washouts, landslips, accumulation of snow or ice, lack of water arising from weather or environmental restrictions, geomagnetically induced currents;
- (e) lack of adequate fuel resources, accidental collisions, explosions, acts of aircraft, motor vehicles or trains, faults or failures of any plant, apparatus or equipment;
- (f) the coming into force or expiry of any statute or exercise of a statutory power of decision; and
- (g) the partial or entire failure of supply or availability of gas to the Network, or partial or entire failure of the Network,

provided that lack of funds will not be considered a Force Majeure event;

**Gas** means natural gas which meets the Gas Specification;

**Gas Act** means the *Gas Industry Act 2019 (Tas)* and the *Gas Safety Act 2019 (Tas)*;

**Gas Codes** means any codes issued under the Gas Act, as amended from time to time;

**Gas Distribution Services Agreement** means an agreement between Tas Gas and an end-consumer of gas under which Tas Gas provides gas distribution services directly to that end-consumer;

**Gas Measurement Standard** means NZS 5259: 2004 published by the Standards Association of New Zealand as amended or replaced from time to time (or any relevant standard introduced in Australia which is required to be met by metering equipment measuring Gas flow);

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**Gas Odourisation Standard** means the Gas odourisation requirements specified in the Gas Quality Standard and Monitoring Guidelines (Declared Transmission System) published by the Australian Energy Market Operator, as amended or replaced from time to time.

**Gas Retail Code** means the "Gas Retail Code" promulgated under the Gas Act, as amended or replaced from time to time;

**Gas Specification** means the Australian Standard for General Purpose Natural Gas AS4564:2011, as amended from time to time;

**Good Industry Practice** means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in Australia in the same type of undertaking under the same or similar circumstances having regard to common industry practice in Australia at the time;

**Governmental Authority** includes any government or any governmental, semi-governmental or judicial entity, agency or authority (including a local authority), or legislative body, or any person or body charged with the administration of any law;

**GST** means goods and services tax payable pursuant to the GST Act or any other tax, duty or impost imposed on the provision of services of the kind provided under this Agreement from time to time;

**GST Act** means A New Tax System (Goods and Services Tax) Act 1999;

**Interest Rate** means, on any given day, the rate (expressed as a percentage per annum and rounded up to the nearest fourth decimal place) displayed on Reuters' screen page BBSY (or its successor page) at or about 10:45 am on that day as the bid rate for three month bank accepted bills of exchange or, if no such rate is displayed or that page is not available, the average (expressed as a percentage per annum and rounded up to the nearest fourth decimal place) of the bid rates for three-month bank accepted bills of exchange quoted at or about 10:45 am on that day by each of the entities listed on that Reuters screen page when the rate was last displayed or, as the case may be, that page was last available;

**Interruption Event** means any of the following:

- (a) Tas Gas wishes to inspect or effect alterations, maintenance, repairs or additions to any part of the Network;
  - (b) an occurrence or circumstance that may endanger persons or property;
  - (c) an occurrence or circumstance that may adversely affect the proper working of the Network or Transmission System;
  - (d) where Tas Gas reasonably anticipates that the supply of Gas or any transmission capacity across the Network is or will be reduced, impaired or interrupted;
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- (e) where insufficient gas is delivered or will be available for delivery to allow the Network to safely operate;
- (f) where Non-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas enters the Network unless Tas Gas has previously agreed to accept Non-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas;
- (g) where the Maximum Hourly Quantity applicable to a Delivery Point is exceeded;
- (h) upon instructions from any Transmission System operator or as a result of an action by the Transmission System operator under any agreement between Tas Gas and any Transmission System operator; and
- (i) for any other purpose which in Tas Gas's reasonable opinion and in accordance with Good Industry Practice requires the interruption or reduction in the conveyance of Gas;

**Manifest Error** means an error in the amount of an invoice arising from:

- (a) an obvious arithmetic error in calculating the Charges;
- (b) the invoicing of Charges where there is no doubt that those Charges have already been paid by the Network User;
- (c) the Network User being charged in respect of a Delivery Point where Tas Gas's records indicate the Network User has not received Gas at that Delivery Point during the period to which the invoice relates; or
- (d) charges being allocated to a Delivery Point on the basis of it being a particular type of connection where there is no doubt that the Delivery Point is a different type of connection.

**Maximum Hourly Quantity** means in respect of any nominated gas Delivery Point, the maximum hourly quantity (measured in standard cubic metres per hour (scmh)) set out in a Network connection request accepted by Tas Gas under clause 1 of schedule 5 (or as otherwise agreed from time to time with Tas Gas);

**Metering Equipment** means equipment for the purpose of measuring the quantity of Gas conveyed through the Network to a Delivery Point;

**Network** means the pressurised gas distribution system (including pipes and associated plant, equipment and other facilities (including meters)) used in the conveyance of Gas by Tas Gas to Consumers in Tasmania;

**Network Connection Requirements** means Tas Gas's written standards for connection to the Network as issued (and as may be amended from time to time) by Tas Gas;

**Network User** means the party specified as the Network User in Schedule 1 and its successors and permitted assigns;

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**NMI or National Metering Identifier** means the unique numeric identifier assigned to a Delivery Point by Tas Gas;

**Non-Specification Gas** means gas which does not meet the Gas Specification or does not comply in any other respect with the requirements of clause 10.3.1;

**Projected Annual Quantity** means the quantity of Gas which the Network User, in good faith, expects to off-take from the Network at any nominated Delivery Point in any consecutive 12 month period;

**Prudential Requirements** means the prudential requirements set out in Schedule 2;

**Receipt Points** means the points where Gas enters into the Network from the Transmission System;

**Reconciliation Code** means the code established under the Gas Act to assist the development of a competitive gas market by providing a uniform process for Network User transfers between competing retailers, and the allocation and reconciliation of gas quantities between users at Receipt Points into a transmission system or distribution network, as amended from time to time;

**Rights of Access** means rights for Tas Gas, its employees, contractors, agents and invitees:

- (a) of safe and unobstructed access to and within a Consumer's Premises; and
- (b) of reasonable use of facilities and amenities available to the Consumer and ordinarily used in association with Tas Gas's Equipment at the Consumer's Premises (including, without limitation, the provision of suitable space at the Consumer's Premises for the safe and secure housing of Tas Gas's Equipment which is satisfactory to Tas Gas);

for the purposes of:

- (c) installing, testing, inspecting, maintaining, repairing, replacing, operating, reading or removing any of Tas Gas's Equipment at or from the Consumer's Premises;
  - (d) ascertaining the cause of any interference to the quality of services being provided by Tas Gas to any person;
  - (e) inspecting the Consumer's Equipment or any Metering Equipment to assess compliance with this Agreement;
  - (f) preventing danger or damage to persons or property;
  - (g) connecting or disconnecting the supply of Gas to any Delivery Point; or
  - (h) for any purpose related to such activities or to Tas Gas's rights, benefits or obligations under or in relation to this Agreement;
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**Statutory Charge** means any recurring charge, tax, impost, rate, levy or payment of a similar nature payable by Tas Gas to any Governmental Authority in connection with Tas Gas's business or any assets used in connection with the services provided under this Agreement (but not including GST or income tax. This includes a change Tas Gas's cost caused by changes in the laws relating to depreciation);

**Supply Agreement** means the agreement between the Network User and a Consumer for the supply of Gas to that Consumer;

**Tas Gas's Agent** means a person or organisation with whom Tas Gas has entered or proposes to enter, into an agreement to provide services for or on behalf of Tas Gas;

**Tas Gas's Equipment** means the Fittings and Metering Equipment belonging to Tas Gas or Tas Gas's Agent which are from time to time installed in, over, or upon a Consumer's Premises (and, for the avoidance of doubt, all equipment within the Consumer's Premises that is integral to the operation of the Network and is on the Network side of the Delivery Point is the property of Tas Gas);

**Transmission Services Agreement** means an agreement with the owner or operator of the Transmission System for the transmission of Gas to the Receipt Points;

**Transmission System** means:

- (a) the natural gas transmission system owned by Tasmanian Gas Pipeline Pty Limited ABN 36 083 052 019 (TGP) or its successors or assigns; or
- (b) any other system for the transmission of Gas;

**Working Day** means a day other than a Saturday, Sunday or public holiday in Tasmania;

**1.2 Defined Expressions:** expressions defined in the main body of this Agreement have the defined meaning in the whole of this Agreement including the background;

**1.3 Headings:** section, clause and other headings are for ease of reference only and will not affect this Agreement's interpretation;

**1.4 Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;

**1.5 Parties:** references to parties are references to parties to this Agreement;

**1.6 Persons:** references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;

**1.7 Plural and Singular:** words importing the singular number include the plural and vice versa;

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**1.8 Schedules:** the schedules to this Agreement and the provisions and conditions contained in these schedules have the same effect as if set out in the body of this Agreement;

**1.9 Sections, Clauses and Schedules:** references to sections, clauses and schedules are references to this Agreement's sections, clauses and schedules; and

**1.10 Statutes and Regulations:** references to any statutory provision include any statutory provision which amends or replaces it, and any subordinate legislation made under it.

## **2. TERM AND RENEWAL**

**2.1 Term:** This Agreement will begin on the Commencement Date and will continue until terminated pursuant to clause 2.2, unless otherwise terminated earlier in accordance with the provisions of this Agreement.

**2.2 Expiry:** Subject to clause 2.3, at any time after the fifth anniversary of the Commencement Date (specified in Schedule 1) either party may give the other party at least 90 Working Days prior written notice terminating this Agreement.

**2.3 Requirements for Network User Initiated Termination:** The Network User may not terminate this Agreement pursuant to clause 2.2 unless:

**2.3.1** the Network User has arranged for another person to supply the Consumers that are supplied by the Network User before the Agreement is terminated and that person has entered into a Use of System Agreement with Tas Gas; or

**2.3.2** Tas Gas is advised by the Network User that the Network User no longer has any Consumers.

**2.4 New Use of System Agreement:** If:

**2.4.1** Tas Gas gives notice to the Network User under clause 2.2 ("Expiry Notice") specifying an Expiry Date;

**2.4.2** at the time the Network User receives the Expiry Notice it has contractual obligations to supply gas to any Consumers that extend beyond the Expiry Date; and

**2.4.3** the Network User gives written notice to Tas Gas no later than 30 Working Days prior to the Expiry Date that it wishes to continue to supply those Consumers beyond the Expiry Date,

then the following will apply:

**2.4.4** As soon as practicable the parties will meet to discuss in good faith the terms of a new use of system agreement under which the Network User will be able to continue to supply Consumers on the Network after the Expiry Date;

**2.4.5** If agreement on the new terms is not reached before the Expiry Date the terms of Tas Gas's then "standard" Use of System

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Agreement (as identified by Tas Gas) will be the terms on which the Network User will be entitled to continue to supply Consumers, and Tas Gas and the Network User will enter into such agreement without further delay.

### 3. TAS GAS'S OBLIGATIONS

**3.1 Services:** Subject to the terms and conditions on this Agreement, Tas Gas will:

- 3.1.1** accept Gas from the Network User at the Receipt Point or the Receipt Points (as the case may be) for distribution across the Network to Consumers;
- 3.1.2** distribute Gas to Consumers;
- 3.1.3** allow Consumer's Equipment to be connected to the Network; and
- 3.1.4** at all times carry out its obligations under this Agreement in accordance with Good Industry Practice, all applicable Laws and the terms of this Agreement.

**3.2 Suspension Of Agreement:** If, at any time during the term of this Agreement, the Network User:

- 3.2.1** has not (in response to a written request from Tas Gas) provided Tas Gas with written and current evidence that the Network User is the holder of a valid and subsisting licence issued under the Gas Act authorising the Network User to sell gas by retail to the Consumers; and
- 3.2.2** has not (in response to a written request from Tas Gas) provided Tas Gas with written and current evidence that the Network User is a party to a Transmission Services Agreement;
- 3.2.3** has not (in response to a written request from Tas Gas) provided Tas Gas with written and current evidence that it is purchasing the Gas at the Receipt Points from another person who is party to a Transmission Services Agreement;
- 3.2.4** is not complying with the Prudential Requirements;

then (without prejudice to any other rights and remedies that Tas Gas may have) Tas Gas may, at any time thereafter while the issue remains unresolved, give written notice to the Network User suspending Tas Gas's obligations under this Agreement. If such notice is given, Tas Gas's obligations shall be suspended with immediate effect until such time as the Network User complies with this clause, provided that where Tas Gas's obligations have been suspended continuously for a period of two months then Tas Gas shall have the right to terminate this Agreement immediately by written notice to the Network User.

### 4. NETWORK USER'S OBLIGATIONS

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**4.1 Compliance with Gas laws and Reconciliation Code:** The Network User will comply with the requirements of all applicable legislation including the Gas Act and any regulations and codes made under the Gas Act, as amended or replaced from time to time. Without limiting the foregoing the Network User shall comply with all relevant obligations applying to the Network User under the Reconciliation Code.

**4.2 Follow Good Industry Practice:** The Network User will ensure that, in all respects of its business operations relating to the distribution of its Gas across the Network and the sale of such Gas to Consumers, the Network User follows Good Industry Practice (including recognised industry codes of practice).

**4.3 Interference with the Network:** The Network User will not:

**4.3.1** interfere with the Network or cause or permit any person, material or device to do so;

**4.3.2** interfere with Tas Gas's Equipment; and

**4.3.3** convey or receive (or attempt to convey or receive) any signal or other form of communications or any other thing (other than Gas pursuant to this Agreement) across the Network,

and will use best endeavours to ensure that its Consumers do not do any of these things.

**4.4 Supply of Information:** To enable Tas Gas to perform its obligations under this Agreement, any agreement between Tas Gas and the owner or operator of the Transmission System and any legislation (including, without limitation, the Reconciliation Code), the Network User will make available to Tas Gas in the form specified by Tas Gas and at the times requested by Tas Gas on reasonable notice such information as may reasonably be required by Tas Gas, including (without limitation):

**4.4.1** data from any Metering Equipment owned by the Network User and such information as Tas Gas may in its opinion require to enable Tas Gas to calculate the charges payable by a Network User under this Agreement; and

**4.4.2** estimates and projections of Gas that is likely to be consumed by those Consumers who are being supplied by the Network User.

**4.5 Faults affecting the Network:** The Network User will notify Tas Gas, as soon as practicable after becoming aware, of any faults affecting the Network, signs of damage, gas escape or other abnormalities to the Network. The Network User will also notify Tas Gas, as soon as practicable, if it becomes aware of the occurrence of any event or circumstance that could adversely affect the Network and any information the Network User may have about those matters.

## **5. CONSUMERS, CONNECTION AND DISCONNECTION**

**5.1 Connection and disconnection:** Tas Gas and the Network User will comply with their respective obligations set out in Schedule 5.

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**5.2 Consumers over 5TJ pa:** The Network User agrees and acknowledges that:

**5.2.1** this Agreement is only intended to apply to the distribution of Gas to Consumers and it does not apply to persons who, at the relevant time, are end-consumers pursuant to a Gas Distribution Services Agreement;

**5.2.2** the Network User will promptly notify Tas Gas if:

(a) any Consumer's Gas usage or requirements equal or exceed 5 TJ per annum at any time (on a 12 month rolling average basis); and

(b) the Network User is considering supplying Gas to a person who has, or may have, Gas requirements that equal or exceed 5 TJ per annum (on a 12 month rolling average basis);

**5.2.3** Tas Gas may from time to time require the Network User to require that any Consumer whose Gas usage or requirements equal or exceed 5 TJ per annum (on a rolling 12 month basis) enter into a Gas Distribution Services Agreement directly with Tas Gas (and the Network User will include provisions in its contracts with Consumers to allow the Network User to give effect to this).

## **6. INTERRUPTION TO CONVEYANCE**

**6.1 No Warranty:** Tas Gas gives no warranty that the conveyance of Gas across the Network to Consumers will be continuous or fault-free.

**6.2 Interruption Event:** Tas Gas may interrupt or reduce the conveyance of Gas to any Delivery Point if an Interruption Event occurs in relation to that Delivery Point. Where practicable, Tas Gas will use commercially reasonable endeavours to ensure that any action it takes pursuant to this clause 6.2 conforms with any industry contingency plan or load shedding guidelines which it has agreed to. Tas Gas will use all commercially reasonable endeavours to restore the conveyance of Gas to a Delivery Point where the conveyance has been interrupted or reduced pursuant to this clause 6.2 as soon as commercially reasonably practicable once it is satisfied (acting reasonably) that it is appropriate to do so.

**6.3 Outages:** Tas Gas and the Network User will comply with the provisions regarding outages contained in schedule 7.

## **7. RECEIPT POINTS AND DELIVERY POINTS**

**7.1 Receipt Points:** The point or points at which Gas shall be accepted by Tas Gas for distribution through the Network shall be the Receipt Point or Receipt Points, as the case may be.

**7.2 Delivery Points:** The point or points at which Gas shall be delivered by Tas Gas shall be the Delivery Points.

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**7.3 New Delivery Points and Withdrawal of Delivery Points:** All Delivery Points shall be owned and operated by Tas Gas.

**7.4 Multiple User Delivery Points:** Unless otherwise agreed by the parties, the Network User will not share any Delivery Point with any other Network user.

## **8. QUANTITY OF GAS**

### **8.1 Maximum Hourly Quantity:**

**8.1.1** Tas Gas will, in relation to each Delivery Point, in any hour (subject to the receipt of sufficient quantities of gas being received into the Network at the relevant Receipt Point) permit the Network User to off-take at the Delivery Point a quantity of gas up to the Maximum Hourly Quantity for that Delivery Point.

**8.1.2** If the Network User wishes to vary the Maximum Hourly Quantity for any Delivery Point the Network User shall give written notice to Tas Gas specifying the proposed variation and the date on which it is proposed that the variation takes effect. No variation in a Maximum Hourly Quantity will take effect unless Tas Gas (at its complete discretion) notifies the Network User that it accepts the proposed variation. If any increase to a Maximum Hourly Quantity would require Tas Gas to invest in the Network, Tas Gas may (at its discretion) require the Consumer to make a financial contribution to the cost of such investment as a condition of accepting the proposal for increased Maximum Hourly Quantity.

**8.2 Indemnity if Maximum Hourly Quantity Exceeded:** If the Maximum Hourly Quantity applicable to a Delivery Point is exceeded, the Network User will indemnify Tas Gas against any costs, damage, loss or expense suffered or incurred by it as a result (whether directly or indirectly) of the Maximum Hourly Quantity having been exceeded.

**8.3 Flow-Limiting:** If the Maximum Hourly Quantity applicable to a Delivery Point is exceeded or Tas Gas reasonably believes that the Maximum Hourly Quantity applicable to a Delivery Point is likely to be exceeded:

**8.3.1** Tas Gas may, at its sole discretion, install (or require the Network User to install) a flow limiting device and the installation costs of the flow limiting device are payable by the Network User; and

**8.3.2** if Tas Gas wishes and advises the Network User accordingly, Tas Gas and the Network User will meet to discuss in good faith the Network Users likely maximum expected peak Network usage and the likely change to the Charges to reflect the expenditure Tas Gas estimates it will incur to increase the capacity of the Network to meet the maximum expected peak Network usage.

**8.4 Tas Gas may authorise Network User to exceed Maximum Hourly Quantity:** Tas Gas may, in its absolute discretion, authorise the

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Network User to temporarily exceed the Maximum Hourly Quantity at a Delivery Point.

**8.5 Projected Annual Quantity:** Where requested by Tas Gas, the Network User will, within 2 months of the request, provide to Tas Gas the Projected Annual Quantity for the following calendar year for each Delivery Point where the Projected Annual Quantity exceeds 1 terajoule. Such a request will not be made more than once in any calendar year.

**8.6 Anticipated Changes in Quantity:** If, at any time during a year, the Network User becomes aware of circumstances as a result of which the Projected Annual Quantity provided pursuant to clause 8.5 will, or will be likely to change, the Network User will, as soon as reasonably practicable, notify Tas Gas accordingly.

## 9. QUALITY OF GAS

### 9.1 Delivery pressure

**9.1.1 Tas Gas to deliver Gas within pressure range:** Tas Gas will use its commercially reasonable endeavours to ensure that Gas delivered to a Delivery Point is delivered within the standard pressure range specified by Tas Gas (in accordance with clause 9.1.3) as being applicable to such Delivery Point (based on the Maximum Hourly Quantity applying at that Delivery Point).

**9.1.2 Delivery Pressure falls outside Standard Pressure Range:** Where the Network User becomes aware that the delivery pressure has fallen outside the standard pressure range for that Delivery Point then the Network User will notify Tas Gas of the occurrence as soon as reasonably practicable. If Tas Gas anticipates or is otherwise aware that Gas is or will be delivered to a Delivery Point outside the pressure range for that Delivery Point, Tas Gas will advise the Network User as soon as is reasonably practicable of the steps required, and the timeframe proposed to correct it. In parts of the Network the delivery pressure may, during periods of high demand, fall below the standard pressure range. Tas Gas aims to ensure delivery pressures remain within the standard pressure ranges as specified below by implementing Network maintenance, rehabilitation or reinforcement programmes.

**9.1.3 Standard Pressure Ranges and Codes:** The standard pressure range codes and ranges used by Tas Gas are available from Tas Gas on request. Tas Gas reserves the right to update the pressure ranges from time to time in accordance with Tas Gas's asset management plan or operating procedures. In all cases Tas Gas will endeavour to provide the Network User with adequate notice of any planned changes to the standard pressure ranges.

**9.2 Gas Network Rehabilitation:** If Tas Gas seeks to undertake a Network rehabilitation programme, it will, except to the extent otherwise agreed (whether before or after the Commencement Date), seek to negotiate in good faith with the relevant Consumer, reasonable terms for the replacement or upgrade of any of the Consumer's Equipment which may

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be necessary as a consequence of the Network rehabilitation programme. If agreement is not reached, Tas Gas may, at its discretion, choose to procure and install, at its own cost, suitable equipment to ensure delivery pressure is maintained in accordance with this Agreement and the Network User will ensure that every Supply Agreement provides Tas Gas with such right (and that such right shall be directly enforceable by Tas Gas).

### 9.3 Specification:

**9.3.1** The Network User shall ensure that all gas delivered on behalf of the Network User for acceptance at a Receipt Point complies with the Gas Specification and with all other quality and specification requirements of relevant legislation (including, without limitation, the requirements of the Gas Act).

**9.3.2** The Network User shall not deliver any Non-Specification Gas for acceptance at a Receipt Point without the prior written consent of Tas Gas and all the users of the Network potentially affected by such Non-Specification Gas. The Network User shall give Tas Gas written notice as early as possible prior to delivery, giving particulars of the extent to which the Non-Specification Gas will differ from the Gas Specification and (if known by the Network User at the time of the notice) the expected commencement and duration of the supply of Non-Specification Gas, together with confirmation and evidence that all the users of the Network potentially affected by such Non-Specification Gas have consented.

**9.3.3** The Network User will indemnify, and keep indemnified, Tas Gas against all reasonable expenses, costs (including legal costs on a solicitor/client basis), losses, liabilities and claims suffered or incurred by Tas Gas arising out of or in connection with any breach by the Network User of its obligations under clauses 9.3.1 and/or 9.3.2.

### 9.4 Alteration of Specification

**9.4.1 Tas Gas may alter Specification:** Tas Gas may materially alter the specification of the Gas received into the Network (as a result of commingling with other gas received into the Network) within the limits of the Gas Specification.

**9.4.2 Acceptance of Non-Specification Gas:** In the event that Tas Gas agrees, or is deemed to have agreed, to accept Non-Specification Gas for delivery to the Consumer:

- (a) Tas Gas may, at its discretion, deliver to the Delivery Point gas having the same or higher specification than the specifications of the Non-Specification Gas accepted by Tas Gas at the Receipt Point; and
  - (b) the Network User will indemnify Tas Gas against any liabilities to other persons as a consequence of Non-Specification Gas being conveyed in the Network.
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**9.4.3 Closure of Receipt Points:** If Tas Gas reasonably believes that Non-Specification Gas is or is likely to be delivered into the Network, Tas Gas may, unless it has agreed to accept such Non-Specification Gas, close the relevant Receipt Point and keep it closed until it is satisfied that gas complying with the Gas Specification will be delivered to that Receipt Point. Prior to closing the relevant Receipt Point, Tas Gas will use all commercially reasonable endeavours to try to stop the flow of any Non-Specification Gas into the Receipt Point.

**9.5 Odourisation:** The Network User will ensure that all Gas delivered for acceptance at a Receipt Point will be odourised to the Gas Odourisation Standard, as that standard is updated from time to time. If Gas delivered for acceptance at a Receipt Point is unodourised, insufficiently odourised or excessively odourised, the Network User will indemnify Tas Gas for all costs, damage, loss or expense suffered as a result thereof including (without limitation) any costs of testing and supplementary odorization.

## **10. RIGHT OF ACCESS**

**10.1 Network User to Procure Access to Consumer's Premises:** The Network User will use best endeavours to procure that each Consumer grants and provides to Tas Gas and its employees, agents, subcontractors, invitees and other authorised representatives, Rights of Access at all times during the term of this Agreement and during the period of six months following expiry or termination of this Agreement. The Network User will ensure that every Supply Agreement:

**10.1.1** includes an obligation on each consumer to grant and provide such Rights of Access; and

**10.1.2** provides that such obligation is enforceable by Tas Gas.

**10.2 Exercise of Rights of Access:** In exercising its Rights of Access Tas Gas agrees that it will:

**10.2.1** where practicable, give the Consumer reasonable notice of its intention and the purpose for which it proposes to exercise its Rights of Access provided that Tas Gas will be at liberty to take all reasonable steps to gain immediate access where it reasonably believes there is immediate danger to person or property;

**10.2.2** procure that its representatives carry appropriate identification to identify themselves as Tas Gas's employees or agents;

**10.2.3** show respect for and cause as little inconvenience to the Consumer as is practicable; and

**10.2.4** where practicable, observe the Network Users reasonable practices and procedures for entering and occupying the Consumer's Premises.

## **11. EQUIPMENT**

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**11.1 Tas Gas's Equipment:** All items of Tas Gas's Equipment situated on a Consumer's Premises will remain the sole and absolute property of Tas Gas. If circumstances so require, the Network User will assist Tas Gas to obtain an undertaking from the Consumer to provide and maintain, at no cost to Tas Gas, suitable space for the safe and secure housing of Tas Gas's Equipment related to the Delivery Point and deemed necessary by Tas Gas in accordance with Good Industry Practice to be housed at the Consumer's Premises.

**11.2 Interference or damage to Tas Gas's Equipment:**

**11.2.1** The Network User will, and will use best endeavours to procure that each Consumer will, ensure that it and its respective employees, agents and invitees do not interfere with or damage Tas Gas's Equipment without the prior written consent of Tas Gas, except to the extent that emergency action has to be taken to protect the health and safety of persons or to prevent damage to property, and shall take all reasonable precautions necessary to protect Tas Gas's Equipment from damage, complying with any reasonable requests about such protection made by Tas Gas. If any of Tas Gas's Equipment is damaged by the negligence or wilful act or omission of the Network User or the Network User's employees, agents or invitees, then the Network User shall pay the cost of making good the damage to Tas Gas.

**11.2.2 Interference with Tas Gas's Equipment:** If the Network User suspects that there is, or has been, interference with Tas Gas's Equipment at a Consumer's Premises, the Network User will immediately investigate and report its findings to Tas Gas as soon as practicable after becoming aware of them.

**11.3 Consumer's Equipment:**

**11.3.1** Tas Gas will not act in a way that materially impedes or obstructs the operation of the Consumer's Equipment except to enforce this Agreement or to the extent that action has to be taken to protect the health and safety of persons or to prevent damage to property or the Network. If Tas Gas or Tas Gas's Agent materially interferes with the Consumer's Equipment, Tas Gas will use all reasonable endeavours to inform the Consumer as soon as practicable.

**11.3.2 Interference with Consumer's Equipment:** If Tas Gas suspects that there is, or has been, interference with the Consumer's Equipment at a Consumer's Premises, Tas Gas will immediately investigate and report its findings to the Network User as soon as practicable after becoming aware of them.

**12. OWNERSHIP, POSSESSION AND RESPONSIBILITY FOR GAS**

**12.1 The Network:** The Network is and will remain the sole property of Tas Gas. No provision of this Agreement nor the provision of any services by Tas Gas in relation to the Network will confer on the Network User or any

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other person any right of property or other interest in or to any part of the Network.

## 12.2 Gas:

**12.2.1 Control, Possession and Responsibility:** The control and possession of Gas accepted pursuant to this Agreement shall pass from the Network User to Tas Gas at the Receipt Point and shall be held by Tas Gas until Gas is delivered to a Delivery Point.

**12.2.2 Title to Gas:** Title to Gas accepted pursuant to this Agreement shall at all times remain with the Network User and the Network User hereby warrants to Tas Gas that, at the time of delivery to Tas Gas, the Network User has good title to the Gas, free and clear of all liens, encumbrances and claims of a nature inconsistent with Tas Gas's operation of the Network, provided that Tas Gas shall have the right to co-mingle the Network User's Gas with other Gas in the Network during distribution and to subject the Gas in the network to compression, cleaning and other processes consistent with Tas Gas's operation of the Networks. For the purposes of this Agreement the Network User shall, where applicable, include any principal on whose behalf the Network User may be acting as agent, and the Network User is and will be warranting as to that principal's unencumbered title to the Gas.

**12.3 Responsibility for Gas:** Subject to clause 12.5 Tas Gas shall be solely responsible for the Gas on the basis set out in this Agreement while distributing it from the Receipt Point to the Delivery Point and the Network User shall be solely responsible for the Gas at all other places and times.

**12.4 Capacity:** Nothing in this Agreement confers on the Network User any ownership of capacity in relation to a Network.

**12.5 UFG:** The Network User:

**12.5.1** acknowledges that distribution of its Gas across the Network involves the loss of some Gas (whether due to use estimation procedures, meter inaccuracies, system losses or otherwise), known as "Unaccounted for Gas" or "UFG";

**12.5.2** acknowledges that the Reconciliation Code, to which the Network User is bound, contains principles for the allocation of UFG between the various users of the Network; and

**12.5.3** agrees and accepts that, notwithstanding clauses 12.2.2 or 12.3, Tas Gas shall not be liable in any respect for the loss of any of the Network User's Gas which is UFG.

## 13. PRUDENTIALS

The Network User must comply at all times with Tas Gas's Prudential Requirements set on in Schedule 3, unless otherwise agreed.

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## 14. CHARGES

**14.1 Network Charges:** The Network User will pay the Charges (plus GST) in respect of each Delivery Point calculated in accordance with Schedule 4.

### 14.2 Changes to the Charges:

**14.2.1** Tas Gas may, at its discretion, vary the Charges or any component of the Charges (including the method of calculating the Charges) at any time and from time to time (subject to clause 14.2.2);

**14.2.2** Except where a variation of the Charges is being made to reflect a change in the law;

(a) Tas Gas will not increase the Charges set out in paragraphs 1(a), 1(b) or 2 of Schedule 4 more than once in any calendar year; and

(b) Tas Gas will not increase the Charges applicable under paragraph 1(c) of Schedule 4 in respect of any individual Delivery Point more than once in any calendar year.

**14.2.3** Tas Gas will give the Network User not less than 60 days' prior notice of any variation of the Charges

**14.2.4** Any variation of the Charges will be final and binding as between the parties and shall not be the subject of any dispute, mediation or arbitration.

**14.3 Invoicing and payment:** Tas Gas will invoice the Network User for the Charges (plus GST) and the Network User will pay the invoice, in accordance with Schedule 3. Neither Tas Gas nor the Network User may initiate a dispute in relation to any invoice after 15 months from the date of the invoice.

### 14.4 Tas Gas's rights on Network User's failure to pay:

**14.4.1** Without limiting any other right of Tas Gas under this Agreement or otherwise, if the Network User fails to pay any amount set out in any invoice issued by Tas Gas pursuant to this Agreement on the due date for payment the Network User will be in default under this Agreement and Tas Gas may do any or all of the following:

(a) Tas Gas may require the Network User to pay, on demand, Default Interest on the amount unpaid.

(b) If the amount remains unpaid after 10 working days' notice by Tas Gas to the Network User, Tas Gas may call for payment under any Credit Support, but only to the extent payment is due.

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- 14.4.2** The charging of Default Interest under clause 14.4.1(a) will in no way imply the granting or an extension of credit by the party to whom the interest is payable.
- 14.4.3** If the Network User disputes the amount of any invoice, it must pay the whole amount of the invoice other than any amount due to Manifest Error and then initiate a dispute with Tas Gas using the procedure set out in clause 21.
- 14.4.4** Tas Gas may at any time issue an adjustment to an invoice or a new invoice where the Network User has been under charged, over charged or not charged, by either crediting the Network User for any over charging or invoicing the Network User for under or non-charging. An invoice issued under this clause 14.4.4 must be paid within the same time and is subject to the same conditions as if it were an invoice issued under clause 14.3.

## **15. GST**

### **15.1 Definitions and interpretation:**

- 15.1.1** Unless the context requires otherwise, words defined in the GST Act have the same meaning in this clause 15.
- 15.1.2** In this clause 15 Supplier means a party that makes a supply.
- 15.1.3** If a party is notionally liable to pay GST or is liable to pay an amount which is treated as GST under the GST Law, references to GST which the party must pay extend to any notional liability of the party to pay GST and references to an input tax credit extend to any notional input tax credit to which the party is entitled.
- 15.1.4** If a party is a member of a GST group, references to GST which the party must pay and to input tax credits to which the party is entitled include GST which the representative member of the GST group must pay and input tax credits to which the representative member is entitled.

### **15.2 GST Payable in addition to other Consideration**

- 15.2.1** Unless otherwise expressly provided, all amounts referred to in this document have been agreed without regard to GST; that is, on a GST exclusive basis.
- 15.2.2** A recipient of a taxable supply made under this document must pay to the Supplier, in addition to the consideration payable or to be provided for the taxable supply, any GST for which the Supplier is liable in respect of the taxable supply.
- 15.2.3** The recipient must pay the GST to the Supplier:
- (a) if there is a due date for the consideration for the taxable supply, either on that date or within 14 days of

receiving a tax invoice for the taxable supply, whichever is the later; or

- (b) if there is no due date, within 14 days of receiving a tax invoice for the taxable supply.

**15.3 Reimbursements:** A party's obligation to reimburse another party for an amount paid or payable to a third party (eg. a party's obligation to pay another party's legal costs) includes GST on the amount paid or payable to the third party except to the extent that the party being reimbursed is entitled to claim an input tax credit for that GST.

**15.4 Tax Invoice:** Each party making a taxable supply under this document must issue a tax invoice to the other party for each taxable supply:

**15.4.1** if this document provides that an invoice must be issued in respect of the supply on the date the invoice is required to be issued; or

**15.4.2** in any other case, within 14 days of making the taxable supply.

**15.5 Adjustment Note:** Each party must issue an adjustment note to the other party as soon as it becomes aware of an adjustment event relating to a taxable supply by it under this document.

**15.6 Indemnities:** If a payment under an indemnity gives rise to a liability to pay GST, the payer must pay, and indemnify the payee against, the amount of that GST. If a party has an indemnity for, or an amount of consideration is calculated by reference to, a cost on which that party must pay GST, the indemnity is for, and the consideration includes, the cost plus all GST (except any GST for which that party can obtain an input tax credit).

**15.7 GST free supplies and Valuation of Consideration:** Notwithstanding any provision in this document to the contrary Tas Gas may, in its absolute discretion determine, for GST purposes:

**15.7.1** the extent to which supplies made under this document by either Tas Gas or the Network User are taxable, GST free or input taxed supplies; and

**15.7.2** the value of the consideration paid or to be provided for each supply made by either Tas Gas or the Network User and the allocation of such consideration among any taxable, GST free and input taxed supplies.

**15.7.3** Tas Gas may require the Network User to reissue a tax invoice previously issued, or to issue an adjustment note, where Tas Gas considers that the amount of GST on a taxable supply has been calculated incorrectly by the Network User.

**15.7.4** Where the Network User disagrees with a determination by Tas Gas under clause 15.6 in so far as it affects a supply by the Network User it may at its own cost make an application in a form agreed by Tas Gas and the Network User to obtain a private binding ruling from the Australian Taxation Office as to

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the correct GST treatment and both parties will agree to be bound by that Ruling so long as it remains current and binding.

## 16. CHANGES TO THIS AGREEMENT

**16.1 Amendment of Schedules:** Tas Gas will be entitled to amend any provision contained in Schedules 3, 5, 6 and 7 of this Agreement by giving the Network User not less than 30 days' notice providing that the amendment is in accordance with Good Industry Practice or to reflect relevant amendments made to Tas Gas's most recent issue of the Use of System Agreement for the Network (or substitute document).

**16.2 Amendment of Agreement:** Tas Gas will be entitled to amend any provision of this Agreement by giving the Network User not less than 30 days' notice:

**16.2.1** if Tas Gas and the Network User agree to the amendment; or

**16.2.2** to the extent necessary to reflect the mandatory rules or protocols of any industry association or body to which both Tas Gas and the Network User are members or signatories at the relevant time; or

**16.2.3** if the amendment is required to reflect any change in law or any regulatory decision.

**16.3 Minor Changes:** Tas Gas will be entitled to amend any provision of this Agreement where the amendment has no effect on the contractual undertakings of the parties (for example terminology changes to accord with new industry classifications or definitions), by written notice to the Network User.

## 17. LIMITATIONS ON LIABILITY

**17.1 Scope of liability:**

**17.1.1** Subject to the *Competition and Consumer Act 2010 (Cth)* and the express provisions of this Agreement, all warranties, terms and conditions which may be otherwise implied by use, statute or otherwise are, to the extent they may be lawfully be, are excluded.

**17.1.2** The only liability of Tas Gas to the Network User under this Agreement or otherwise arising from the relationship between them (whether by virtue of contract, tort (including negligence) or otherwise) will be for direct loss or damage to the physical property of any person where the damage has been caused by Tas Gas's breach of this Agreement.

**17.1.3** Tas Gas will not be liable for, or for any loss, damage, expense, cost, claim suffered or incurred as a result of, any:

(a) failure to accept Gas at any Receipt Point as allowed under this Agreement;

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- (b) failure to distribute Gas accepted from the Network User for a reason outside Tas Gas's control; or
- (c) act or omission of any Transmission System Operator.

**17.1.4** Neither party will be liable for any failure to perform any obligation under this Agreement where such failure is caused by the other party's failure to comply with the same.

**17.1.5** For the avoidance of doubt and without limiting any other provision of this Agreement, neither party will be liable for:

- (a) any loss of profit, loss of revenue, loss of use, loss of opportunity, loss of contract or loss of goodwill of any person;
- (b) any indirect or consequential loss;
- (c) any loss resulting from liability to any third party except for direct loss or damage to the physical property of any person as set out in clause 17.1.2; or
- (d) any loss resulting from loss or corruption of or damage to any electronically-stored or electronically-transmitted data or software.

**17.1.6** Except as provided in clauses 17.1.2, Tas Gas's liability to the Network User whether in tort (including negligence), contract, breach of statutory duty, equity or otherwise arising from the relationship between them and of any nature whatsoever is excluded to the fullest extent permitted by law.

**17.2** **Quantum of liability:** Without limiting any indemnity provided under this Agreement, the maximum total liability of Tas Gas to the Network User and the Network User to Tas Gas or otherwise arising from the relationship between them will be:

**17.2.1** subject to clause 17.2.2, in respect of a single event or series of events arising from the same event or circumstance, for each Delivery Point, the lesser of "Single Event Liability Amount" specified in Schedule 1 or the amount of the loss or damage suffered; and

**17.2.2** in respect of events or circumstances occurring in any consecutive period of 365 days, the lesser of the "Annual Liability Amount" specified in Schedule 1 or the amount of the loss or damage suffered.

**17.3** **Indemnity:**

**17.3.1** Subject only to clauses 17.3.2 and 17.3.3, Tas Gas will be indemnified and kept indemnified by the Network User in respect of all reasonable expenses, costs (including legal costs on a solicitor/client basis), losses, liabilities and claims suffered or incurred by Tas Gas arising out of or in connection with any breach by the Network User of its obligations under this Agreement.

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- 17.3.2** The Network User will not be liable to Tas Gas under the indemnity provided by clause 17.3.1 in respect of any losses, liabilities or claims of the types provided for in clause 17.1.5(a), (b) or (d), but the Network User will be liable to Tas Gas under the indemnity provided by clause 17.3.1 in respect of any losses, liabilities or claims of the types provided for in clause 17.1.5(c).
- 17.3.3** The maximum total liability of Network User to Tas Gas under the indemnity provided in clause 17.3.1 will be limited to \$1,000,000 for a single event, or \$5,000,000 for all events occurring in any year.
- 17.3.4** The rights of indemnity set out in clause 17.3.1 are in addition to any other right that Tas Gas may have to be indemnified by the Network User in any circumstances whatsoever and whether by statute, in law, equity or otherwise, and the rights of indemnity in clause 17.3.1 do not prejudice any such rights of indemnity in any manner whatsoever.

## **18. FORCE MAJEURE**

**18.1 Notice and suspension of obligations:** If a party to this Agreement is affected, or likely to be affected, by a Force Majeure Event:

**18.1.1** that party must immediately give the other prompt notice of that fact including:

- (a) full particulars of the Force Majeure Event;
- (b) an estimate of its likely duration;
- (c) the obligations affected by it and the extent of its effect on those obligations; and
- (d) the steps taken to rectify it; and

**18.1.2** the obligations under this document of the party giving the notice (other than obligations to pay money) are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

**18.2 Effort to overcome:** A party claiming a Force Majeure Event must use its reasonable commercial efforts to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to settle any industrial dispute in any way it does not want to.

## **19. CONFIDENTIALITY**

**19.1 Confidentiality Obligation:** Each party will keep confidential all information provided by the other party and will not:

**19.1.1** disclose any of that information to any other person; or

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**19.1.2** use any of the Information for any purpose other than to give effect to that party's rights or obligations under this Agreement;

except as provided in clause 19.2.

**19.2** **Exceptions:** Clause 19.1 does not apply to the disclosure of information in the following circumstances:

**19.2.1** to employees, legal advisers, auditors and other consultants provided they have agreed to be bound by an obligation of confidence of the same scope and effect as set out in clause 20.1;

**19.2.2** where disclosure is expressly permitted under the terms of this Agreement or with the prior written consent of the party that supplied the Information;

**19.2.3** where disclosure is required by law or the requirements of any stock exchange;

**19.2.4** where disclosure is to a financier or potential acquirer of all or part of Tas Gas's business;

**19.2.5** where disclosure is required in connection with any legal proceedings, mediation or arbitration relating to this Agreement; and

**19.2.6** where the information is generally and publicly available other than as a result of a breach of confidence by the party receiving the information.

## **20. TERMINATION**

**20.1** **Termination:** This Agreement will terminate on:

**20.1.1** the day after notice is given by one party to the other party terminating this Agreement for reason of an Event of Default occurring in relation to the other party;

**20.1.2** the day after notice is given by either party to the other party terminating this Agreement for the reason that performance of any material provision of this Agreement by either party has to a material extent become illegal and the parties acting reasonably agree that it is not practicable for this Agreement to continue;

**20.1.3** the 11<sup>th</sup> Working Day after notice is given by either party to the other terminating this Agreement for the reason that an event of Force Majeure, which has resulted in the party's failure to perform a material obligation under this Agreement, is of such magnitude or duration that it is impracticable or unreasonable for the party giving notice to remain bound by its obligations under the this Agreement (provided that such notice may not be given until an event of Force Majeure has been in continuous effect for at least six months); or

**20.1.4** the Expiry Date as defined in clause 2.2 of this Agreement.

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**20.2 Effect of Termination:** Upon termination of this Agreement, other than to the extent provided in any other agreement between the parties:

**20.2.1** unless otherwise agreed, each party will return to the other party all property of that party held by the first party; and

**20.2.2** the Network User will have no further right to have its Gas accepted and distributed across the Network.

**20.3 No Waiver:** Termination of this Agreement will not operate as a waiver of any breach of this Agreement or any other agreement by either of the parties and will be without prejudice to any rights, liabilities or obligations of either party which have accrued up to the date of termination. This clause and clauses 17, 19, 21 and 22 together with any other provisions which provide Tas Gas with the benefit of an indemnity or are otherwise expressly or by implication are intended to survive termination, will continue in full force and effect notwithstanding termination.

## **21. RESOLVING DISPUTES**

**21.1 Requirement to follow procedures:** Where any dispute or difference arises between the parties concerning this Agreement, no party may commence any proceedings unless that party has complied with the procedures set out in this clause 21.

**21.2 Escalation to CEOs:** If any dispute or difference arises between the parties concerning this Agreement, either party may give notice to the other party. If the dispute or difference is not resolved by discussion between operational staff within 20 working days of notice being given, the matter is to be referred to the Chief Executives of the parties for resolution.

**21.3 Mediation:** If the dispute or difference cannot be resolved by the Chief Executives within 15 working days of the matter being referred to them, either party may require the matter to be referred to mediation by notice to the other party setting out the general nature of the difference.

**21.4 Appointment of Mediator:** Within 10 working days of receipt of the notice referring the dispute to mediation the parties will agree on the appointment of a mediator or, where they cannot agree within that timeframe, a mediator will be appointed by the President for the time being of the Law Society of Tasmania. In consultation with the mediator, the parties will determine a location, timetable and procedure for the mediation or, if the parties cannot agree, these matters will be determined by the mediator.

**21.5 Representatives:** Each of the parties will appoint a representative who will have authority to reach an agreed solution and effect settlement.

**21.6 Act in good faith:** In all matters relating to the mediation notice, the parties and their representatives will act in good faith and use all reasonable endeavours to ensure the expeditious completion of the mediation procedure.

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- 21.7 Without prejudice:** All proceedings and disclosures in the course of the mediation will be conducted and made without prejudice to the rights and positions of the parties in any subsequent arbitration or other legal proceedings.
- 21.8 Non binding outcome:** Any decision or recommendation of the mediator will not be binding on the parties in respect of any matters other than the conduct of the mediation.
- 21.9 Mediation Costs:** The costs of the mediation, other than the parties' legal costs, will be borne equally by the parties, who will be jointly and severally liable to the mediator in respect of the mediator's fees.
- 21.10 Arbitration:** If the difference is not resolved through mediation within 60 days of the appointment of a mediator, the matter will be referred to arbitration under the Commercial Arbitration Act 1986 before a sole arbitrator and in relation to any such arbitration, the following provisions will apply:
- 21.10.1** in addition to the stated methods of giving notice, facsimile will also be permitted;
  - 21.10.2** the parties will endeavour to agree the choice of an arbitrator and failing agreement, the arbitrator will be appointed by the President of the Law Society of Tasmania;
  - 21.10.3** the venue of the arbitration will be Hobart;
  - 21.10.4** the arbitrator will not appoint any expert to advise except with the written consent of both parties.
- 21.11 Injunctive relief:** Nothing in this clause 21 will preclude either party from taking immediate steps to seek urgent injunctive or equitable relief before an appropriate court.

## **22. GENERAL**

- 22.1 Costs:** Subject to clause 22.2, each party must pay its own expenses incurred in negotiating and executing this document.
- 22.2 Duty:** The Network User must indemnify Tas Gas against and must pay Tas Gas on demand the amount of any duty that is payable on or in relation to this document and the transactions this document contemplates.
- 22.3 Partial Invalidity:** The provisions of this Agreement will apply to the extent that they are permitted by and not in conflict with any statutory requirements for the Network and the supply of Gas. Except as provided in clause 20.1.2, the illegality, invalidity or unenforceability of a provision of this Agreement under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of any other provision of this Agreement.
- 22.4 Inconsistency with Applicable Gas Laws:** If there is any inconsistency between a party's rights and obligations under this Agreement and its obligations or rights under any applicable laws, then
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its rights and obligations under the applicable laws will prevail to the extent of the inconsistency.

**22.5 Assignment and Subcontracting:**

**22.5.1** Tas Gas may sub-contract any of its obligations under this Agreement but will remain liable in accordance with this Agreement for the sub-contractor's default. Tas Gas may assign its rights and obligations under this Agreement without the consent of the Network User.

**22.5.2** The Network User may not assign this Agreement without the prior written consent of Tas Gas, which consent will not be unreasonably withheld.

**22.6 Entire Agreement:** This Agreement and any document expressly incorporated into this Agreement contains all terms of the arrangement between the parties with respect to the subject matter of this Agreement.

**22.7 Implied terms:** All terms and conditions relating to the subject matter of this Agreement that are, or may at any time be, implied by law or custom are excluded to the maximum extent permitted by law except to the extent they are expressly incorporated into this Agreement.

**22.8 Non-Waiver:** Nothing in this Agreement will be considered to be waived by either party except when such waiver is given in writing. Failure or omission by a party at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights of that party to avail itself of the remedies it may have in respect of any breach of that provision or any other provision.

**22.9 No Third Party Rights:** Except as expressly provided in this Agreement the parties do not intend to create rights in or grant remedies to any third party as a beneficiary of this Agreement and this Agreement will be for the sole and exclusive benefit of the parties.

**22.10 Further Assurances:** Each party undertakes to do all acts and things and execute all deeds and documents which may be required to be executed to carry out or give effect to this Agreement.

**22.11 Notices:** Any notice required to be served pursuant to this Agreement will be in writing executed by the party giving the notice or signed on behalf of that party by any officer or solicitor of that party and served at the address or to the facsimile number or e-mail address and to the attention of the person as set out in Schedule 1 or as otherwise notified in writing by the other party. Any notice or document will be deemed to be duly given or made if:

**22.11.1** delivered by hand, when so delivered;

**22.11.2** sent by facsimile or e-mail, when the person effecting the transmission receives an electronic recorded acknowledgement that the facsimile or e-mail has been delivered; or

**22.11.3** sent by post, on the third working day following posting.

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**22.12 Relationship:** Nothing in this Agreement should be interpreted as constituting either party an agent, partner or employee of the other and neither party may pledge the credit of the other nor represent to anyone that:

**22.12.1** it is the other party or is an agent, partner or employee of the other party; or

**22.12.2** it has any power or authority to incur any obligation of any nature on behalf of the other party.

**22.13 Governing Law:** This Agreement is governed by the law in force in Tasmania. Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Tasmania, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Agreement, and waives any right it might have to claim that those courts are an inconvenient forum.

**Execution**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of authorised person signing for  
**Tas Gas Networks Pty Ltd**

\_\_\_\_\_  
Name of authorised person signing for  
**[Network User]**

\_\_\_\_\_  
Position

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Schedule 1**

**GENERAL**

**Network User:** [INSERT]

**Commencement Date:** [INSERT]

**Addresses for Notices:**

Tas Gas: Tas Gas Networks Pty Ltd  
5 Kiln Court  
St Leonards  
Launceston 7250  
Attn: Commercial Manager

Network User [INSERT]

**Single Event Liability Amount:** \$100,000.00

**Annual Liability Amount:** \$250,000.00

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## Schedule 2

### PRUDENTIAL REQUIREMENTS

The following are Tas Gas's Prudential Requirements with which the Network User must comply at all times, unless otherwise agreed.

#### 1. Acceptable credit rating or credit support

- 1.1 The Network User will either maintain an Acceptable Credit Rating or provide Credit Support in a form and on terms acceptable to Tas Gas.
- 1.2 If Tas Gas is concerned, on reasonable grounds, that the Network User is unable to maintain an Acceptable Credit Rating, Tas Gas may request, in writing, that the Network User provide Credit Support in accordance with this Schedule 2.

#### 2. Credit support

- 2.1 Credit Support means that the Network User must provide:
    - 2.1.1 an unconditional guarantee in favour of Tas Gas with a third party guarantor who has and maintains an Acceptable Credit Rating, such guarantee to be for all amounts owing by the Network User to Tas Gas from time to time; or
    - 2.1.2 a performance bond in favour of Tas Gas and issued by a third party which has and maintains an Acceptable Credit Rating, such performance bond to be for an amount equal to Tas Gas's reasonable estimate of one-sixth of the annual Charges (inclusive of GST) payable by the Network User; or
    - 2.1.3 a cash bond that is in Australian dollars equal to Tas Gas's reasonable estimate of one-sixth of the annual Charges (inclusive of GST) payable by the Network User; or
    - 2.1.4 such other security that Tas Gas (acting reasonably) may require.
  - 2.2 Where the Network User elects to provide a guarantee or performance bond pursuant to clause 2.1 of this Schedule, the guarantee or performance bond is to be in a form satisfactory to Tas Gas (acting reasonably).
  - 2.3 Where the Network User elects to provide a cash bond pursuant to clause 2.1 of this Schedule:
    - 2.3.1 Tas Gas will pay the Network User interest, at the Interest Rate, on the amount of the cash bond, with interest to accrue daily and capitalised every 30 days and added to the value of the cash bond; and
    - 2.3.2 the Network User may request a review of the amount of the cash bond on a quarterly basis and if Tas Gas determines that the value of the cash bond exceeds Tas Gas's reasonable
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estimate of one-sixth of the annual Charges (inclusive of GST) payable by the Network User, then Tas Gas will refund the excess to the Network User.

**2.4** The Credit Support may be reviewed on a two-monthly basis by Tas Gas and any change in value required for the Network User to comply with clause 2.1 will be notified to the Network User who will provide additional Credit Support to Tas Gas equal to the revised value required by Tas Gas.

### **3. Failure to pay**

**3.1** If the Network User fails to pay to Tas Gas any amount set out in any invoice issued by Tas Gas pursuant to this Agreement on the due date for payment (otherwise than for Manifest Error) then, (without limiting any other right of Tas Gas under this Agreement) Tas Gas may do any or all of the following:

**3.1.1** make a claim under any Credit Support to the extent payment is due;

**3.1.2** where the amount unpaid is equal to 1% or more of the invoice and remains unpaid after two working days notice from Tas Gas, Tas Gas may (acting reasonably):

- (a) require Credit Support from the Network User, if Credit Support has not already been provided by the Network User; or
- (b) require a change to the type of Credit Support provided by the Network User; or
- (c) require an increase to the level of Credit Support held by Tas Gas.

### **4. Replacement credit support**

**4.1** Where any claim is made under a Credit Support instrument the Network User, upon notification from Tas Gas, will procure replacement Credit Support so that the Credit Support requirements set out in this Schedule continue to be met.

**4.2** Where the Network User is required to provide new, replacement or additional Credit Support, it must do so within 20 working days of a written request from Tas Gas.

### **5. Failure to provide credit support**

**5.1** If, at any time, Tas Gas issues the Network User a written request in accordance with clause 4.2 of this Schedule and the Network User does not supply acceptable Credit Support within the specified time, Tas Gas may, in addition to the monthly Charges, charge the Network User a fee that reflects the additional risk that Tas Gas must bear. This additional fee per month will be one-twelfth of the Interest Rate, plus 5%:

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ie.

$$CT = Ci + ((I+5\%)/12 \times Ci)$$

Where:

Ci = the monthly Charges

I = the Interest Rate

Ct = the Charges owed with the additional fee.

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**Schedule 3****BILLING AND SETTLEMENT PROCESS****1. BILLING**

**1.1** Tas Gas will group Delivery Points together into meter reading rounds ("Meter Reading Rounds") based on their location and Maximum Hourly Quantity.

**1.2** Tas Gas will carry out a reading of the meters at the Delivery Points in any given Meter Reading Round (but Tas Gas is not required to read the Metering Equipment at any individual Delivery Point if Tas Gas cannot reasonably access that Metering Equipment at the time the Meter Reading Round is carried out, in which case clause 1.5 of this Schedule will apply).

**1.3** The billing period for a Delivery Point ("Billing Period") will be the time period between:

- (a) the date the Metering Equipment at the Delivery Point is read (or a reading is estimated); and
- (b) the next date that the Metering Equipment at the Delivery Point is read (or a reading is estimated).

The length of a Billing Period for a Delivery Point will vary from time to time, depending on the frequency with which the relevant Meter Reading Round is carried out.

**1.4** After the conclusion of each Billing Period Tas Gas will calculate the Charges payable for that Billing Period and will send an invoice to the Network User for:

- 1.4.1** the Charges for that Billing Period; and
- 1.4.2** any other amounts due and payable by the Network User under this agreement

**1.5** The calculation will, where possible, be based on actual consumption information for the relevant Consumers. If Tas Gas does not have consumption information (i.e., information on the actual quantity of gas delivered to any of the relevant Consumers during the Billing Period), Tas Gas may estimate the Consumers' Gas consumption, and the Charges, for the Billing Period.

**1.6** The invoice (covering the Billing Period for each Delivery Point) will be sent to the Network User by the 9th working day following the end of that Billing Period and will be payable on the 20th working day following the end of that Billing Period. If Tas Gas fails to send an invoice to the Network User by the 9th working day following the end of the Billing Period then the due date for payment will be extended by one working day for each working day that the invoice is late.

**1.7** Where Tas Gas has estimated the Network User's Charges and complete and accurate consumption information subsequently becomes

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available, Tas Gas will issue an adjustment note for the wash-up amount to the Network User and will adjust the invoice to be issued in the next monthly billing cycle to take into account the wash-up.

## 2. CONTENTS OF INVOICES

**2.1 Contents of Invoices:** Invoices rendered under clause 1 of this Schedule shall include the following information:

**2.1.1** the NMI for each Delivery Point for which Charges are contained in the invoice;

**2.1.2** the actual or estimated gas consumption for each of those Delivery Points during the Billing Period;

**2.1.3** the Charges for each of those Delivery Points for the Billing Period;

**2.1.4** any other amounts charged on the invoice; and

**2.1.5** GST and other amounts payable.

**2.2 Tax Invoice:** Tas Gas must ensure that each invoice contains, for each taxable supply (including any taxable supply made by the Non-Invoicing Party), a tax invoice (or an adjustment notice) prepared in accordance with the GST Act.

## 3. PAYMENT

The Network User shall pay the amount stated as payable on any invoice by direct credit to a bank account nominated by Tas Gas from time to time, or by such other method as is agreed in writing, no later than the due date for payment specified in the invoice. No deduction from the amounts invoiced may be made, except that:

**3.1** if Network User has received a credit note from Tas Gas with the invoice, the Network User may deduct the amount of the credit note from the amount payable under the invoice; and

**3.2** if any part of an amount of any invoice is due to Manifest Error, the Network User may deduct the amount due to that Manifest Error from the amount payable under the invoice.

For the purposes of this clause 2.1 of this Schedule, "deduction" means any legal or equitable set off, and/or any legal or equitable counterclaim, and/or any cross-demand and/or any other legal or equitable claim and/or any disputed amount.

## 4. DISPUTED INVOICES

**4.1 Disputed Invoices:** In the event of any dispute concerning an invoice the Network User shall, within 10 Business Days from the date it receives the invoice, notify Tas Gas in writing identifying the amount in dispute and giving full reasons for the dispute. Subject to clause 3 of this Schedule, the Network User must pay the whole amount of any invoice including the amount of any invoice in dispute. Any such dispute shall be determined in accordance with the arbitration procedure under clause 22.

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- 4.2 Time Limit:** Neither Tas Gas nor the Network User may initiate a dispute in relation to any invoice after 15 months from the date of the invoice.
- 4.3 Interest on Disputed Amount:** Where as a result of the determination of a dispute either party has to pay money to the other then interest shall be payable on the amount of the payment at a rate equal to the Interest Rate from the date of the disputed invoice until actual payment.
- 4.4 Incorrect Invoices:** If the Network User has been overcharged or undercharged under this Agreement then within 30 days after the amount of the error has been agreed or determined by arbitration under clause 21 Tas Gas shall, if the Network User has paid the invoices containing an overcharge, refund the amount of the overcharge or the Network User shall pay to Tas Gas the amount of any undercharge. Interest shall be payable on the amount of an overcharge or undercharge at the Interest Rate from the due date for payment of the incorrect invoice until the date of refund or payment of the overcharge or undercharge.
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### Schedule 4

#### CHARGES (ex GST)

1. The Network User will pay charges for each Delivery Point, based on the type of connection at the Delivery Point, as follows:

[INSERT]

2. In addition, the Network User shall pay the following miscellaneous charges:

Domestic/Residential meter supply pressure alteration (at customers request)	\$([INSERT]) per visit
Commercial (<1TJ p.a) meter supply pressure alteration (at customers request)	\$([INSERT]) per visit
Commercial (>1TJ p.a) meter supply pressure alteration (at customers request)	Price on request
Domestic/Residential meter testing at customers request (where meter found to be accurate)	\$([INSERT]) per test
Commercial (<1TJ) meter testing at customers request (where meter found to be accurate)	\$([INSERT]) per test
Commercial (>1TJ) meter testing at customers request (where meter found to be accurate)	Price on request
Domestic/Residential meter relocation at customers request	Price on request
Commercial meter relocation at customers request	Price on request
Meter capacity change (Domestic/Residential and Commercial)	Price on request
Disconnection at request of retailer or customer	\$([INSERT]) if during normal business hours, otherwise \$([INSERT])
Reconnection at request of retailer or customer	\$([INSERT]) if during normal business hours, otherwise \$([INSERT])
Special meter reading at request of retailer or customer	\$([INSERT]) if during normal business hours, otherwise \$([INSERT])
Service pipe on-site location and marking on private property	Free if provide 3 working days notice and within normal business hours, otherwise \$([INSERT])

Application fee for new connections	\$(INSERT) for customers without gas fired water heating or central heating.
Any other services specifically requested by the Network User or Consumers	Price on_request

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**Schedule 5****CONSUMER INFORMATION SHEETS, CONNECTION AND DISCONNECTION****1. NEW CONNECTIONS**

Where the Network User wishes to supply Gas to a person whose premises are not at that time connected to the Network or where any Consumer wishes to have install a new or additional connection to the Network the following will apply:

- 1.1** The Network User must provide Tas Gas with a completed request for a new Network connection containing the following information;
    - 1.1.1** the name, address and contact details of the Consumer
    - 1.1.2** the required location of the Delivery Point;
    - 1.1.3** requested MHQ;
    - 1.1.4** anticipated load factor;
    - 1.1.5** the preferred date for commencement of supply;
    - 1.1.6** any other information required under the Reconciliation Code; and
    - 1.1.7** any other relevant information reasonably requested by Tas Gas;
  - 1.2** Tas Gas will respond in a timely manner to receipt of the completed application, advising whether or not it accepts the Network connection request. Tas Gas will not unreasonably reject a Network connection request. If Tas Gas rejects the request it will provide reasons and Tas Gas and the Network User will endeavour to negotiate amendments to the request that make it acceptable to Tas Gas.
  - 1.3** For the avoidance of doubt, it shall be reasonable for Tas Gas to reject a Network connection request if Tas Gas determines, in its absolute discretion, that such connection would be uneconomic for Tas Gas. In such circumstances Tas Gas may request that the Network User or the Consumer make a financial contribution towards the cost of connection so as to render the connection economic for Tas Gas.
  - 1.4** Where Tas Gas accepts a Network connection request it will advise the Network User of the NMI for the Delivery Point, the pressure available for the relevant MHQ and what is required in order for the Network connection to occur. Subject to Tas Gas's requirements under this Schedule being met, Tas Gas will use all reasonable endeavours to expedite the connection of Consumers.
  - 1.5** The Network User must comply, and must ensure that the Consumer or prospective Consumer, complies with all requirements notified by Tas Gas for the Network connection.
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**1.6** In the event that a financial incentive is offered by Tas Gas to any Consumer(s) to encourage the Consumer(s) to connect certain loads within a prescribed timeframe, the Network User acknowledges that any such incentive shall be an arrangement between Tas Gas and the Consumer(s) and the Network User will not interfere with such arrangement, any communication between Tas Gas and the Consumer(s) or the payment of the incentive..

## **2. CONSUMER TRANSFERS**

Where a Consumer that is connected to the Network elects to change retailers to a new Network user, the transfer will take place in accordance with the procedures set out in the Reconciliation Code

## **3. CONSUMER'S EQUIPMENT**

The Network User will ensure that all Consumer's Equipment complies at all times with the Network Connection Requirements and will ensure (and satisfy Tas Gas) that the Consumer's Equipment is not connected to another gas distribution system;

## **4. DISCONNECTION**

**4.1 Disconnection Event:** Tas Gas may disconnect a Delivery Point from the Network if a Disconnection Event occurs in relation to that Delivery Point. Tas Gas will use all commercially reasonable endeavours to reconnect a Delivery Point disconnected pursuant to this clause 4.1 as soon as commercially reasonably practicable once it is satisfied (acting reasonably) that the Disconnection Event had ceased or has been remedied to its satisfaction (as the case may be).;

**4.2 Disconnection on Request:** The Network User may, at any time, provide a written request to Tas Gas to disconnect an End Consumer being supplied by the Network User where such request is permitted by the Gas Retail Code (and the Network User has complied with all of the relevant requirements of the Gas Retail Code). On receipt of such request Tas Gas will disconnect the End Consumer as soon as is reasonably practicable. Where Tas Gas disconnects an End Consumer pursuant to this clause, the Network User must pay to Tas Gas the disconnection charge specified in Schedule 4. The disconnection charge must be paid by the Network User within 10 Working Days of receipt of an invoice from Tas Gas for such disconnection charge.

**4.3 Disconnection for fault identification:** Tas Gas may, in accordance with Good Industry Practice, isolate, disconnect or reconnect a Delivery Point for the purposes of identifying and or correcting a fault with the Consumer's Equipment.

**4.4 Continued disconnection:** If a Delivery Point remains disconnected for a period in excess of 2 months, Tas Gas has the right to physically disconnect that Delivery Point and remove its Network equipment from that Delivery Point.

**4.5 No liability:** Tas Gas shall not be liable for any loss the Network User or Consumer may suffer or incur as a result of any disconnection in accordance with this clause 4.

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- 4.6 Costs:** The Network User shall reimburse Tas Gas for all costs relating to the disconnection (and of any reconnection) pursuant to this clause 4.
- 4.7 Supply Agreement:** The Network User will ensure that each Supply Agreement provides for the rights of Tas Gas to disconnect (and reconnect) a Delivery Point in accordance with this clause 4.

## Schedule 6

### MEASUREMENT OF GAS

#### 1. METERING EQUIPMENT

**1.1 Provision of Metering Equipment:** Subject to the Network User procuring the grant and provision of the Rights of Access as set out in clause 11.1, Tas Gas will ensure that Metering Equipment is installed and maintained at or near each Delivery Point. All such Metering Equipment and the conversion of measured volume to standard value of energy will meet the Gas Measurement Standard.

**1.2 Check Metering and Telemetry Equipment:** Each Party may, at its own cost, install check Metering Equipment and/or a pressure monitoring point on or near any Delivery Point and may connect the check Metering Equipment and/or a pressure monitoring point to any on-line monitoring system operated by Tas Gas. Where a Time of Use Device is installed, the Network User may, at its own cost, install and connect to the Consumer's Equipment, equipment to effect the telemetric transfer of data relating to gas volumes, pressure and temperature. The design and installation of this equipment will be such that it does not interfere with Tas Gas's Metering Equipment and will be to the standards reasonably required and notified by Tas Gas.

#### 2. READINGS

**2.1 Meter Readings:** Tas Gas will be responsible for taking meter readings from all Delivery Points and providing such data to the Network User as is required in accordance with the Reconciliation Code and applicable Allocation Agreement. Tas Gas will use reasonable efforts to ensure that readings are taken from the Metering Equipment at each Delivery Point at least once every three months. Tas Gas will not be in breach of this obligation if, for any reason, it is unable to access and read the Metering Equipment at any Delivery Point.

**2.2 Special Meter Reading Requests:** The Network User may, at any time, provide a written request to Tas Gas to carry out a special meter reading of Tas Gas's Metering Equipment located at or near the point of connection for an End Consumer supplied by the Network User. Such request must be given at least 48 hours prior to the proposed meter read. On receipt of such request, Tas Gas will use reasonable endeavours to carry out the special meter read in accordance with the request. If Tas Gas is unable to carry out the special meter read as requested, Tas Gas will notify the Network User. Where Tas Gas carries out a special meter read pursuant to this clause, the Network User must pay to Tas Gas the special meter read charge specified in Schedule 4. The special meter read charge must be paid by the Network User within 10 Working Days of receipt of an invoice from Tas Gas for such special meter read charge.

#### 3. ACCURACY OF GAS METERING EQUIPMENT

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- 3.1 Quantity of Gas:** The quantity of gas will be determined by converting the quantity recorded by the Metering Equipment to a standard value of energy in accordance with the Gas Measurement Standard. If, however, the Network User or Tas Gas wishes to dispute the accuracy of the Metering Equipment, written notice must be given to the other party.
- 3.2 Dispute over Accuracy of Metering Equipment:** In the event notice under clause 4.1 of this Schedule is given, the following procedure is to be followed:
- 3.2.1** The Network User and Tas Gas will, as soon as practicable, provide each other with any information they may have that is relevant to the checking of the Metering Equipment.
  - 3.2.2** The Network User will arrange for the Metering Equipment to be tested in accordance with the Reconciliation Code.
  - 3.2.3** The Metering Equipment is deemed to be accurate if it does not exceed the margins of error specified in the Gas Measurement Standard.
  - 3.2.4** The party disputing the accuracy of the Metering Equipment is to pay the reasonable costs of testing, unless the Metering Equipment is found to be inaccurate, in which case the Network User is to bear the costs.
  - 3.2.5** If it is established that any Metering Equipment is not measuring accurately, the quantity of gas delivered during the period when the Metering Equipment was not measuring accurately (determined through reference to a check meter or other available information) will be corrected in accordance with the Reconciliation Code. If no reliable data is available to confirm the period when the Metering Equipment was not measuring accurately, or the amount by which it was inaccurate, the correction will not be applied for more than 60 days prior to the date when the inaccuracy was first notified or detected.
  - 3.2.6** Where any Metering Equipment has failed to measure the quantity of gas, the method of calculating the quantity of gas delivered will be in accordance with the Reconciliation Code.
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## Schedule 7

### OUTAGES

#### 1. COMMUNICATION OF PLANNED OUTAGE

- 1.1** Where Tas Gas plans any outage to any part of the Network that will effect the conveyance of Gas to any Consumers, Tas Gas will, where practicable, provide the Network User with at least 10 Working Days' advance notice. Tas Gas will use industry standard file formats to communicate planned outages to the Network User.
- 1.2** Tas Gas will consider alternative outage times if the Network User notifies Tas Gas that its Consumers may be materially adversely affected by a planned outage. However, Tas Gas retains absolute discretion to determine outage times.
- 1.3** Tas Gas will provide any update or variation to a planned outage as soon as is reasonably practicable.

#### 2. MANAGEMENT OF UNPLANNED OUTAGES AND EMERGENCIES

- 2.1** Subject to any applicable law, Tas Gas will be solely responsible for the management of Network emergencies. For the purposes of this clause, an emergency is an unplanned interruption to supply or an unplanned event which presents, or has the potential to present, a hazard to life and/or property and/or the environment. Emergency management will include the actions necessary to:
- 2.1.1** assess and make safe any situation;
  - 2.1.2** control the flow of gas into and out of the Network;
  - 2.1.3** make temporary or permanent repairs to any part of the Network;
  - 2.1.4** restore the Network back to its previous operational condition;
  - 2.1.5** co-ordinate with Network users to restore supply of gas; and
  - 2.1.6** keep users of the Network and the public informed of developments.
- 2.2** Tas Gas will maintain an emergency management plan outlining the resources available and actions likely to be taken when handling any foreseeable emergency involving the Network. The plan will include load shedding principles and schedules, emergency liaison, and take into account the plan developed by the owner or operator of the Transmission System ("Gas Contingency Plan").
- 2.3** Both Tas Gas and the Network User will nominate and notify each other of the name of the person who will act as the Civil Defence liaison officer in the event of a Civil Defence emergency.
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- 2.4** The Network User must take no action, and must ensure that its Consumers take no action, during the course of a Network emergency to compromise Tas Gas's ability to manage the emergency.
- 2.5** Once the Network has been returned to normal operating condition, Tas Gas will advise the Network User and the parties will liaise to restore supply to Consumers' Equipment including the re-lighting of pilots. Where the emergency has resulted from an incident on the Network, Tas Gas will meet the costs of restoring supply to Consumers' Equipment including the re-lighting of pilots. Where the emergency has resulted from an incident upstream of the Network, the costs of restoring supply to the Consumers' Equipment including the re-lighting of the pilots will not be the responsibility of Tas Gas.
- 2.6** In the event of a major partial loss of gas supply it may become necessary to implement load shedding on the Network. In order to manage that event, Tas Gas will develop and maintain a load shedding plan.
- 2.7** Where requested, Tas Gas will provide to the Network User the load shedding plan.
- 2.8** The initial objective in any load shedding is to stabilise the Transmission System or Network. Once stabilisation is achieved Tas Gas will use commercially reasonable endeavours to ensure that the available gas supplies are allocated in accordance with the prevailing contractual arrangements for the supply of gas which have been notified to Tas Gas by the Network User and other users of the Network. In allocating available gas supplies, once stabilisation is achieved, Tas Gas will be entitled to rely on any such notice given by the affected users of the Network. In the absence of any such notice, Tas Gas will be entitled to allocate available gas supplies as it sees fit.
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# Short Use of System Agreement

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Between

**Tas Gas Networks**  
(ABN 91 104 499 569)

And

**[Insert Entity]**  
(ABN)

Dated

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# Short Use of System Agreement

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DATED	_____ day of _____,
BETWEEN	Tas Gas Networks Pty Ltd (ABN: 91 104 499 569) of 5 Kiln Ct, St Leonards, Tasmania 7250 (' <i>Tas Gas</i> ')
AND	<insert name> (ABN: <insert number>) of <insert address> <insert post code> (' <i>Network User</i> ')

## BACKGROUND

- A. Tas Gas constructs and operates the Network providing gas distribution services to End Consumers.
- B. The Network User wishes Tas Gas to make the Network available for the acceptance of Gas from the Network User and the distribution of that Gas to End Consumers.
- C. Tas Gas agrees to accept Gas from the Network User and distribute Gas on behalf of the Network User to End Consumers across the Network on the terms and conditions set out in this Agreement.

## WITNESSES AS FOLLOWS:

### 1. Interpretation

In this deed unless the context indicates otherwise:

#### 1.1 Definitions:

**Agreement** means this Agreement, including the Schedules, as amended from time to time in accordance with the provisions of this Agreement;

**CPI Index** means the Consumer Price Index (All Groups) Weighted Average of Eight Capital Cities, as published by the Australian Bureau of Statistics or, if the index ceases to be published, such alternative index as is nominated by Tas Gas and agreed by the Network User acting reasonably.

**End Consumer** means a person that is, at the relevant time, party to a subsisting Gas Distribution Services Agreement and is named as the "End-Consumer" in that agreement;

**Expiry Date** means the expiry date determined under clause 3.2;

**Event of Default** means any of the following:

- a) where a party fails to pay the other party any amount due under this Agreement and the default is unremedied within 10 working days after notice has been given of such non-payment by the non-defaulting party;

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## Short Use of System Agreement

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- b) where there is a material failure of a party's obligations under this Agreement and the failure is not in the process of being remedied to the reasonable satisfaction of the other party within 30 working days after notice from the other party of the failure and request requiring it to be remedied;
- c) where a party fails on three or more occasions in any period of 12 months to meet an obligation under this Agreement within the time specified then, whether each individual failure is in itself material or not, where all such failures taken cumulatively materially adversely affect the other party's rights or the other party's ability to carry out its obligations under this Agreement or, in the case of Tas Gas, any agreement with any other person; or
- d) where a party:
  - (i) has a receiver or statutory manager appointed to or in respect of the whole or any substantial part of its undertaking, property or assets,
  - (ii) is deemed or presumed to be unable to pay its debts as they fall due, becomes or is deemed to be insolvent, or is in fact unable to pay its debts as they fall due, or proposes or makes a compromise, or an arrangement or composition with or for the benefit of its creditors or fails to comply with a statutory demand under section 459 of the Corporations Act 2001; or
  - (iii) is removed from the register of companies (otherwise than as a consequence of an amalgamation) or an effective resolution is passed for its liquidation;

**Force Majeure** means an event or circumstance beyond the reasonable control of either party, which results in or causes the failure of that party to perform any of its obligations under this Agreement. Such events may include, but are not limited to:

- a) acts of God;
- b) strikes, lockouts, or other industrial disturbances;
- c) acts of a public enemy, declared or undeclared war, threats of war, terrorist acts, blockades, revolution, riots, insurrection, civil commotion, public demonstrations, sabotage, acts of vandalism, epidemics or disease;
- d) acts of animals, lightning, fire, storms, floods, earthquakes, landslides, washouts, landslips, accumulation of snow or ice, lack of water arising from weather or environmental restrictions, geomagnetically induced currents;
- e) lack of adequate fuel resources, accidental collisions, explosions, acts of aircraft, motor vehicles or trains, faults or failures of any plant, apparatus or equipment;
- f) the coming into force or expiry of any statute or exercise of a statutory power of decision; and
- g) the partial or entire failure of supply or availability of gas to the Network, or partial or entire failure of the Network,

provided that lack of funds will not be considered a Force Majeure event;

**Gas** means natural gas which meets the Gas Specification;

**Gas Act** means the *Gas Industry Act 2019* and the *Gas Safety Act 2019*;

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**Gas Distribution Services Agreement** means an agreement between Tas Gas and an End Consumer under which Tas Gas provides Gas distribution services to that End Consumer at nominated points of connection at nominated sites;

**Gas Odourisation Standard** means the Gas odourisation requirements specified in the Gas Quality Standard and Monitoring Guidelines (Declared Transmission System) published by the Australian Energy Market Operator, as amended or replaced from time to time.

**Gas Retail Code** means the "Gas Retail Code" promulgated under the Gas Act, as amended or replaced from time to time;

**Gas Specification** means the Australian Standard for General Purpose Natural Gas AS4564: 2011, as amended or replaced from time to time;

**Good Industry Practice** means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in Australia in the same type of undertaking under the same or similar circumstances having regard to common industry practice in Australia at the time;

**Metering Equipment** means equipment for the purpose of measuring the quantity of Gas conveyed through the Network to a point of connection with an End Consumer;

**Network** means the pressurised gas distribution system (including pipes and associated plant, equipment and other facilities (including meters)) used in the conveyance of Gas by Tas Gas to End Consumers in Tasmania;

**Network User** means the party specified as the Network User in Schedule 1;

**Non-Specification Gas** means gas which does not meet the Gas Specification;

**Tas Gas** means Tas Gas Networks and its successors and assigns;

**Receipt Points** means the points specified in Schedule 1 where Gas enters into the Network from the Transmission System;

**Reconciliation Code** means the code established under the Gas Act to assist the development of a competitive gas market by providing a uniform process for End-Consumer transfers between competing retailers, and the allocation and reconciliation of gas quantities between users at injection points into a transmission system or distribution network, as amended from time to time;

**Transmission Services Agreement** means an Agreement with the owner or operator of the Transmission System for the transmission of Gas to the Receipt Points;

**Transmission System** means:

- (a) the natural Gas transmission system owned by Tasmanian Gas Pipeline Pty Limited ABN 36 083 052 019 (**TGP**) or its successors or assigns; or
- (b) any other system for the transmission of Gas;

**Working Day** means a day other than a Saturday, Sunday or public holiday in Tasmania;

- 1.2 **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning in the whole of this deed including the background;

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- 1.3 **Headings:** section, clause and other headings are for ease of reference only and will not affect this deed's interpretation;
- 1.4 **Negative Obligations:** any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- 1.5 **Parties:** references to parties are references to parties to this deed;
- 1.6 **Persons:** references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
- 1.7 **Plural and Singular:** words importing the singular number include the plural and vice versa;
- 1.8 **Schedules:** the schedules to this deed and the provisions and conditions contained in these schedules have the same effect as if set out in the body of this deed;
- 1.9 **Sections, Clauses and Schedules:** references to sections, clauses and schedules are references to this deed's sections, clauses and schedules; and
- 1.10 **Statutes and Regulations:** references to any statutory provision include any statutory provision which amends or replaces it, and any subordinate legislation made under it.

## 2. SCOPE OF AGREEMENT

- 2.1 **Agreement Applies only to Distribution to End Consumers:** This Agreement applies only to the acceptance and distribution of Gas by Tas Gas to those customers of the Network User who are End Consumers. It does not apply to the acceptance or distribution of Gas by Tas Gas from the Network User in any other respect.

## 3. TERM AND RENEWAL

- 3.1 **Term:** This Agreement will begin on the commencement date specified in Schedule 1 and will expire on the Expiry Date (as determined under clause 4.2), unless otherwise terminated earlier in accordance with the provisions of this Agreement.
- 3.2 **Expiry Date:** At any time after the fifth anniversary of the commencement date (specified in Schedule 1) either party may give the other party written notice specifying an "Expiry Date" for this Agreement, which date must be at least 90 Working Days after the date on which the notice is given.
- 3.3 **New Use of System Agreement: If:**
  - 3.3.1 Tas Gas gives notice to the Network User under clause 3.2 ("Expiry Notice") specifying an Expiry Date;
  - 3.3.2 at the time the Network User receives the Expiry Notice it has contractual obligations to supply gas to any End-Consumers that extend beyond the Expiry Date; and
  - 3.3.3 the Network User gives written notice to Tas Gas no later than 30 Working Days prior to the Expiry Date that it wishes to continue to supply those End-Consumers beyond the Expiry Date,

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3.3.4 then the following will apply:

3.3.5 As soon as practicable the parties will meet to discuss in good faith the terms of a new use of system agreement under which the Network User will be able to continue to supply End-Consumers on the Network after the Expiry Date;

3.3.6 If agreement on the new terms is not reached before the Expiry Date the terms of Tas Gas's then "standard" Use of System Agreement (as identified by Tas Gas) will be the terms on which the Network User will be entitled to continue to supply End-Consumers, and Tas Gas and the Network User will enter into such agreement without further delay.

### 4. ACCEPTANCE AND DISTRIBUTION OF GAS

4.1 **Acceptance of Gas:** Subject to the terms of this Agreement, Tas Gas agrees to accept Gas from the Network User at the Receipt Points, for distribution across the Network to the End Consumers. Tas Gas only agrees to accept Gas for distribution to End Consumers, and not for any other consumers.

4.2 **Distribution of Gas to End Consumers:** Tas Gas will distribute Gas, and provide gas distribution services, to End Consumers (who purchase that Gas from the Network User) in accordance with any relevant Gas Distribution Services Agreement(s). The Network User acknowledges that End Consumers will enter into Gas Distribution Services Agreements with Tas Gas which provide certain obligations and powers for both parties, including in particular in relation to:

4.2.1 rights of disconnection and interruption of conveyance of gas to an End Consumer;

4.2.2 the quality of supply, metering and outage management; and

4.2.3 the supply of information by an End Consumer to Tas Gas.

4.3 **Disconnection Requests:** The Network User may, at any time, provide a written request to Tas Gas to disconnect an End Consumer being supplied by the Network User where such request is permitted by the Gas Retail Code (and the Network User has complied with all of the relevant requirements of the Gas Retail Code). On receipt of such request, and provided that disconnection will not cause Tas Gas to be in breach of its Gas Distribution Services Agreement with the relevant End Consumer, Tas Gas will disconnect the End Consumer as soon as is reasonably practicable. Where Tas Gas disconnects an End Consumer pursuant to this clause, the Network User must pay to Tas Gas the disconnection charge specified in Schedule 1. The disconnection charge must be paid by the Network User within 10 Working Days of receipt of an invoice from Tas Gas for such disconnection charge.

4.4 **Special Meter Reading Requests:** The Network User may, at any time, provide a written request to Tas Gas to carry out a special meter reading of Tas Gas's Metering Equipment located at or near the point of connection for an End Consumer supplied by the Network User. Such request must be given at least 48 hours prior to the proposed meter read. On receipt of such request, Tas Gas will use reasonable endeavours to carry out the special meter read in accordance with the request. If Tas Gas is unable to carry out the special meter read as requested, Tas Gas will notify the Network User. Where Tas Gas carries out a special meter read pursuant to this clause, the Network User must pay to Tas Gas the special meter read charge specified in Schedule 1. The special meter read charge

## Short Use of System Agreement

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must be paid by the Network User within 10 Working Days of receipt of an invoice from Tas Gas for such special meter read charge.

### 4.5 **Tas Gas Compliance with laws and Good Industry Practice:**

4.5.1 Tas Gas will comply with the requirements of all applicable legislation including the Gas Act and any regulations and codes made under the Gas Act, as amended or replaced from time to time. Without limiting the foregoing Tas Gas shall comply with all relevant obligations applying to Tas Gas under the Reconciliation Code.

4.5.2 Tas Gas will ensure that, in all respects of its business operations relating to the distribution of Gas across the Network it will follow Good Industry Practice (including recognised industry codes of practice).

## 5. **SUSPENSION OF AGREEMENT**

5.1 **Suspension:** If, at any time during the term of this Agreement, the Network User has not (in response to a request from Tas Gas) promptly:

5.1.1 provided Tas Gas with written and current evidence that the Network User is the holder of a valid and subsisting licence issued under the Gas Act authorising the Network User to sell gas by retail to the End Consumers; and

5.1.2 provided Tas Gas with written and current evidence that the Network User is a party to a Transmission Services Agreement; or

5.1.3 provided Tas Gas with written and current evidence that it is purchasing the Gas at the Receipt Points from another person who is party to a Transmission Services Agreement,

then Tas Gas's obligations under this Agreement shall be suspended, and Tas Gas may disconnect any End Consumers until such time as the Network User complies with this clause, provided that where Tas Gas's obligations have been suspended continuously for a period of two months then Tas Gas shall have the right to terminate this Agreement immediately by written notice to the Network User. The Network User will indemnify Tas Gas for all costs, damages, loss or expense suffered on incurred arising out of or in connection with the Network User not complying with this clause 5.

## 6. **NETWORK USER'S OBLIGATIONS**

6.1 **Compliance with Gas laws and Reconciliation Code:** The Network User will comply with the requirements of all applicable legislation including the Gas Act and any regulations and codes made under the Gas Act, as amended or replaced from time to time. Without limiting the foregoing the Network User shall comply with all relevant obligations applying to the Network User under the Reconciliation Code.

6.2 **Follow Good Industry Practice:** The Network User will ensure that, in all respects of its business operations relating to the distribution of its Gas across the Network and the sale of such Gas to End Consumers, the Network User follows Good Industry Practice (including recognised industry codes of practice).

6.3 **Interference with the Network:** The Network User will not interfere with the Network or cause or permit any person, material or device to do so.

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- 6.4 **Gas Quality:** The Network user shall ensure that all gas delivered for acceptance at a Receipt Point complies with the Gas Specification, and with all other quality and specification requirements of relevant legislation.
- 6.5 **Non-Specification Gas:** The Network User shall not deliver any Non-Specification Gas for acceptance at a Receipt Point without the prior written consent of Tas Gas and all the users of the Network potentially affected by such Non-Specification Gas. The Network User shall give Tas Gas written notice as early as possible prior to delivery, giving particulars of the extent to which the Non-Specification Gas will differ from the Gas Specification and (if known by the Network User at the time of the notice) the expected commencement and duration of the supply of Non-Specification Gas, together with confirmation and evidence that all the users of the Network potentially affected by such Non-Specification Gas have consented. The Network User will indemnify, and keep indemnified, Tas Gas against all reasonable expenses, costs (including legal costs on a solicitor/client basis), losses, liabilities and claims suffered or incurred by Tas Gas arising out of or in connection with any breach by the Network User of its obligations under this clause.
- 6.6 **Odourisation:** The Network User will ensure that all Gas delivered for acceptance at a Receipt Point will be odourised to the Gas Odourisation Standard, as that standard is updated from time to time. If Gas delivered for acceptance at a Receipt Point is unodourised, insufficiently odourised or excessively odourised, the Network User will indemnify Tas Gas for all costs, damage, loss or expense suffered as a result thereof including (without limitation) any costs of testing and supplementary odourisation.
- 6.7 **Consumers:** The Network User will provide Tas Gas with a list identifying all of the End Consumers supplied by the Network User, and will update the list as and when required to ensure it remains current at all times.

## 7. OWNERSHIP

- 7.1 **The Network:** The Network is and will remain the sole property of Tas Gas. No provision of this Agreement nor the provision of any services by Tas Gas in relation to the Network will confer on the Network User or any other person any right of property or other interest in or to any part of the Network.
- 7.2 **Gas:**
- 7.2.1 The control and possession of Gas accepted pursuant to this Agreement shall pass from the Network User to Tas Gas at the Receipt Point and shall be held by Tas Gas until Gas is delivered to the End Consumer.
- 7.2.2 Title to Gas accepted pursuant to this Agreement shall at all times remain with the Network User and the Network User hereby warrants to Tas Gas that, at the time of delivery to Tas Gas, the Network User has good title to the Gas, free and clear of all liens, encumbrances and claims of a nature inconsistent with Tas Gas's operation of the Network, provided that Tas Gas shall have the right to co-mingle the Network User's Gas with other Gas in the Network during distribution and to subject the Gas in the network to compression, cleaning and other processes consistent with Tas Gas's operation of the Networks. For the purposes of this the Network User shall, where applicable, include any principal on whose behalf the Network User may be acting as agent, and the Network User is and will be warranting as to that principal's unencumbered title to the Gas.

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7.3 **Capacity:** Nothing in this Agreement confers on the Network User any ownership of capacity in relation to a Network.

7.4 **UFG: The Network User:**

7.4.1 acknowledges that distribution of its Gas across the Network involves the loss of some Gas (whether due to use estimation procedures, meter inaccuracies, system losses or otherwise), known as "Unaccounted for Gas" or "UFG";

7.4.2 acknowledges that the Reconciliation Code, to which the Network User is bound, contains principles for the allocation of UFG between the various users of the Network; and

7.4.3 agrees and accepts that, notwithstanding clause 7.2.2, Tas Gas shall not be liable in any respect for the loss of any of the Network User's Gas which is UFG.

## 8. CHANGES TO THIS AGREEMENT

8.1 **Amendment Rights:** Tas Gas will be entitled to amend any provision of this Agreement by giving the Network User not less than 30 days notice:

8.1.1 if Tas Gas and the Network User agree to the amendment; or

8.1.2 to the extent necessary to reflect the mandatory rules or protocols of any industry association or body to which both Tas Gas and the Network User are members or signatories at the relevant time; or

8.1.3 if the amendment is required to reflect any change in law or any regulatory decision; or

8.1.4 to reflect relevant amendments made to Tas Gas's most recent issue of the Gas Distribution Services Agreement (or substitute document).

8.2 **Minor Changes:** Tas Gas will be entitled to amend any provision of this Agreement where the amendment has no effect on the contractual undertakings of the parties (for example terminology changes to accord with new industry classifications or definitions), by written notice to the Network User.

## 9. LIMITATIONS ON LIABILITY

9.1 **Scope of liability:**

9.1.1 Subject to the *Competition and Consumer Act 2010* (Cth) and the express provisions of this Agreement, all warranties, terms and conditions in relation to the provision of the Gas Distribution Services, or any other product or service, which may be otherwise implied by use, statute or otherwise are, to the extent they may lawfully be, excluded.

9.1.2 The only liability of Tas Gas to the Network User under this Agreement or otherwise arising from the relationship between them (whether by virtue of contract, tort (including negligence) or otherwise) will be for the cost of repair or replacement of physical property damaged or destroyed by the Tas Gas' breach of this Agreement, negligence or other wrongful act or omission and for injury or loss of life to a person where such injury, loss or damage has been caused by the Tas Gas's breach of this Agreement, negligence or other wrongful act or omission.

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- 9.1.3 Tas Gas will not be liable for, or for any loss, damage, expense, cost, claim suffered or incurred as a result of, any:
- a) failure to accept Gas at any Receipt Point as allowed under this Agreement or any Gas Distribution Services Agreement;
  - b) failure to distribute Gas accepted from the Network User for a reason outside Tas Gas's control; or
  - c) act or omission of any Transmission System Operator.
- 9.1.4 Neither party will be liable for any failure to perform any obligation under this Agreement where such failure is caused by the other party's failure to comply with the same.
- 9.1.5 For the avoidance of doubt and without limiting any other provision of this Agreement, neither party will be liable for:
- a) any loss of profit, loss of revenue, loss of use, loss of opportunity, loss of contract or loss of goodwill of any person;
  - b) any indirect or consequential loss;
  - c) any loss resulting from liability to any third party except for direct loss or damage to the physical property of any person as set out in clause 9.1.1; or
  - d) any loss resulting from loss or corruption of or damage to any electronically-stored or electronically-transmitted data or software.
- 9.1.6 Except as provided in clauses 9.1.1, Tas Gas's liability to the Network User whether in tort (including negligence), contract, breach of statutory duty, equity or otherwise arising from the relationship between them and of any nature whatsoever is excluded to the fullest extent permitted by law.
- 9.2 **Quantum of liability:** Without limiting any indemnity provided under this Agreement, the maximum total liability of Tas Gas to the Network User and the Network User to Tas Gas or otherwise arising from the relationship between them will be:
- 9.2.1 subject to clause 9.2.2, in respect of a single event or series of events arising from the same event or circumstance, for each Receipt Point, the lesser of "Single Event Liability Amount" specified in Schedule 1 or the amount of the loss or damage suffered; and
  - 9.2.2 in respect of events or circumstances occurring in any consecutive period of 365 days, the lesser of the "Annual Liability Amount" specified in Schedule 1 or the amount of the loss or damage suffered.
- 9.3 **Indemnity:**
- 9.3.1 Subject only to. clauses 9.3.2 and 9.3.3, Tas Gas will be indemnified and kept indemnified by the Network User in respect of all reasonable expenses, costs (including legal costs on a solicitor/client basis), losses, liabilities and claims suffered or incurred by Tas Gas arising out of or in connection with any breach by the Network User of its obligations under this Agreement.
  - 9.3.2 The Network User will not be liable to Tas Gas under the indemnity provided by clause 9.3.1 in respect of any losses, liabilities or claims of the types provided for

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in clause 9.1.5(a), (b) or (d), but the Network User will be liable to Tas Gas under the indemnity provided by clause 9.3.1 in respect of any losses, liabilities or claims of the types provided for in clause 9.1.5(c).

9.3.3 The maximum total liability of Network User to Tas Gas under the indemnity provided in clause 9.3.1 will be limited to \$1,000,000 for a single event, or \$5,000,000 for all events occurring in any year.

9.3.4 The rights of indemnity set out in clause 9.3.1 are in addition to any other right that Tas Gas may have to be indemnified by the Network User in any circumstances whatsoever and whether by statute, in law, equity or otherwise, and the rights of indemnity in clause 9.3.1 do not prejudice any such rights of indemnity in any manner whatsoever.

## 10. FORCE MAJEURE

10.1 **Notice and suspension of obligations:** If a party to this Agreement is affected, or likely to be affected, by a Force Majeure Event:

10.1.1 that party must immediately give the other party prompt notice of that fact including:

- a) full particulars of the Force Majeure Event;
- b) an estimate of its likely duration;
- c) the obligations affected by it and the extent of its effect on those obligations; and
- d) the steps taken to rectify it; and

10.1.2 the obligations under this document of the party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

10.2 **Effort to overcome:** A party claiming a Force Majeure Event must use its reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to settle any industrial dispute in any way it does not want to.

## 11. CONFIDENTIALITY

11.1 **Confidentiality Obligation:** Each party will keep confidential all information provided by the other party and will not:

11.1.1 disclose any of that information to any other person; or

11.1.2 use any of the Information for any purpose other than to give effect to that party's rights or obligations under this Agreement or any Gas Distribution Services Agreement;

except as provided in clause 11.2.

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- 11.2 **Exceptions:** Clause 11.1 does not apply to the disclosure of information in the following circumstances:
- 11.2.1 to employees, legal advisers, auditors and other consultants provided they have agreed to be bound by an obligation of confidence of the same scope and effect as set out in clause 11.1;
  - 11.2.2 where disclosure is expressly permitted under the terms of this Agreement or with the prior written consent of the party that supplied the Information;
  - 11.2.3 where disclosure is required by law or the requirements of any stock exchange;
  - 11.2.4 where disclosure is required in connection with any legal proceedings, mediation or arbitration relating to this Agreement or the Gas Distribution Services Agreement; and
  - 11.2.5 where the information is generally and publicly available other than as a result of a breach of confidence by the party receiving the information.

## 12. TERMINATION

- 12.1 **Termination:** This Agreement will terminate on:

- 12.1.1 the day after notice is given by one party to the other party terminating this Agreement for reason of an Event of Default occurring in relation to the other party;
- 12.1.2 the day after notice is given by either party to the other party terminating this Agreement for the reason that performance of any material provision of this Agreement by either party has to a material extent become illegal and the parties acting reasonably agree that it is not practicable for this Agreement to continue;
- 12.1.3 the 11th Working Day after notice is given by either party to the other terminating this Agreement for the reason that an event of Force Majeure, which has resulted in the party's failure to perform a material obligation under this Agreement, is of such magnitude or duration that it is impracticable or unreasonable for the party giving notice to remain bound by its obligations under the this Agreement; or
- 12.1.4 the Expiry Date.

- 12.2 **Effect of Termination:** Upon termination of this Agreement, other than to the extent provided in any other agreement between the parties:

- 12.2.1 unless otherwise agreed, each party will return to the other party all property of that party held by the first party; and
- 12.2.2 the Network User will have no further right to have its Gas accepted and distributed across the Network.

- 12.3 **No Waiver:** Termination of this Agreement will not operate as a waiver of any breach of this Agreement or any other agreement by either of the parties and will be without prejudice to any rights, liabilities or obligations of either party which have accrued up to the date of termination. This clause and clauses 9, 11, 13 and 14 together with any other provisions which expressly or by implication are intended to survive termination, will continue in full force and effect notwithstanding termination.



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### 13. RESOLVING DISPUTES

- 13.1 **Good Faith:** The parties intend that any differences between them concerning this Agreement will be resolved amicably by good faith discussion.
- 13.2 **Requirement to follow procedures:** Where any dispute or difference arises between the parties concerning this Agreement, no party may commence any proceedings unless that party has complied with the procedures set out in this clause 14.
- 13.3 **Escalation to CEOs:** If any dispute or difference arises between the parties concerning this Agreement, either party may give notice to the other party. If the dispute or difference is not resolved by discussion between operational staff within 20 working days of notice being given, the matter is to be referred to the Chief Executives of the parties for resolution.
- 13.4 **Mediation:** If the dispute or difference cannot be resolved by the Chief Executives within 15 working days of the matter being referred to them, either party may require the matter to be referred to mediation by notice to the other party setting out the general nature of the difference.
- 13.5 **Appointment of Mediator:** Within 10 working days of receipt of the notice referring the dispute to mediation the parties will agree on the appointment of a mediator or, where they cannot agree within that timeframe, a mediator will be appointed by the President for the time being of the Law Society of Tasmania. In consultation with the mediator, the parties will determine a location, timetable and procedure for the mediation or, if the parties cannot agree, these matters will be determined by the mediator.
- 13.6 **Representatives:** Each of the parties will appoint a representative who will have authority to reach an agreed solution and effect settlement.
- 13.7 **Act in good faith:** In all matters relating to the mediation notice, the parties and their representatives will act in good faith and use all reasonable endeavours to ensure the expeditious completion of the mediation procedure.
- 13.8 **Without prejudice:** All proceedings and disclosures in the course of the mediation will be conducted and made without prejudice to the rights and positions of the parties in any subsequent arbitration or other legal proceedings.
- 13.9 **Non-binding outcome:** Any decision or recommendation of the mediator will not be binding on the parties in respect of any matters other than the conduct of the mediation.
- 13.10 **Mediation Costs:** The costs of the mediation, other than the parties' legal costs, will be borne equally by the parties, who will be jointly and severally liable to the mediator in respect of the mediator's fees.
- 13.11 **Arbitration:** If the difference is not resolved through mediation within 60 days of the appointment of a mediator, the matter will be referred to arbitration under the Commercial Arbitration Act 1986 before a sole arbitrator and in relation to any such arbitration, the following provisions will apply:
- 13.11.1 in addition to the stated methods of giving notice, facsimile will also be permitted;
- 13.11.2 the parties will endeavour to agree the choice of an arbitrator and failing agreement, the arbitrator will be appointed by the President of the Law Society of Tasmania;



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13.11.3 the venue of the arbitration will be Hobart;

13.11.4 the arbitrator will not appoint any expert to advise except with the written consent of both parties.

13.12 **Injunctive relief:** Nothing in this clause 13 will preclude either party from taking immediate steps to seek urgent injunctive or equitable relief before an appropriate court.

### 14. GENERAL

14.1 **Costs:** Subject to clause 14.2, each party must pay its own expenses incurred in negotiating and executing this document.

14.2 **Duty:** The Network User must indemnify Tas Gas against and must pay Tas Gas on demand the amount of any duty that is payable on or in relation to this document and the transactions this document contemplates.

14.3 **Partial Invalidity:** The provisions of this Agreement will apply to the extent that they are permitted by and not in conflict with any statutory requirements for the Network and the supply of Gas. Except as provided in clause 12.1.2, the illegality, invalidity or unenforceability of a provision of this Agreement under any law will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of any other provision of this Agreement.

14.4 **Inconsistency with Applicable Gas Laws:** If there is any inconsistency between a party's rights and obligations under this Agreement and its obligations or rights under any applicable laws, then its rights and obligations under the applicable laws will prevail to the extent of the inconsistency.

#### 14.5 Assignment and Subcontracting:

14.5.1 Tas Gas may sub-contract any of its obligations under this Agreement but will remain liable in accordance with this Agreement for the sub-contractor's default. Tas Gas may assign its rights and obligations under this Agreement without the consent of the Network User.

14.5.2 The Network User may not assign this Agreement without the prior written consent of Tas Gas, which consent will not be unreasonably withheld.

14.6 **Entire Agreement:** This Agreement and any document expressly incorporated into this Agreement contains all terms of the arrangement between the parties with respect to the subject matter of this Agreement.

14.7 **Implied terms:** All terms and conditions relating to the subject matter of this Agreement that are, or may at any time be, implied by law or custom are excluded to the maximum extent permitted by law except to the extent they are expressly incorporated into this Agreement.

14.8 **Non-Waiver:** Nothing in this Agreement will be considered to be waived by either party except when such waiver is given in writing. Failure or omission by a party at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights of that party to avail itself of the remedies it may have in respect of any breach of that provision or any other provision.

## Short Use of System Agreement

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- 14.9 **No Third Party Rights:** Except as expressly provided in this Agreement the parties do not intend to create rights in or grant remedies to any third party as a beneficiary of this Agreement and this Agreement will be for the sole and exclusive benefit of the parties.
- 14.10 **Further Assurances:** Each party undertakes to do all acts and things and execute all deeds and documents which may be required to be executed to carry out or give effect to this Agreement.
- 14.11 **Notices:** Any notice required to be served pursuant to this Agreement will be in writing executed by the party giving the notice or signed on behalf of that party by any officer or solicitor of that party and served at the address or to the facsimile number or e-mail address and to the attention of the person as set out in Schedule 1 or as otherwise notified in writing by the other party. Any notice or document will be deemed to be duly given or made if:
- 14.11.1 delivered by hand, when so delivered;
  - 14.11.2 sent by facsimile or e-mail, when the person effecting the transmission receives an electronic recorded acknowledgement that the facsimile or e-mail has been delivered; or
  - 14.11.3 sent by post, on the third working day following posting.
- 14.12 **Relationship:** Nothing in this Agreement should be interpreted as constituting either party an agent, partner or employee of the other and neither party may pledge the credit of the other nor represent to anyone that:
- 14.12.1 it is the other party or is an agent, partner or employee of the other party; or
  - 14.12.2 it has any power or authority to incur any obligation of any nature on behalf of the other party.
- 14.13 **Governing Law:** This Agreement is governed by the law in force in Tasmania. Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Tasmania, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Agreement, and waives any right it might have to claim that those courts are an inconvenient forum.

# Short Use of System Agreement

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## EXECUTED AS AN AGREEMENT

Executed by **Tas Gas Networks (ABN 91 104 499 569)** in accordance with section 127 of the *Corporations Act 2001*:

\_\_\_\_\_  
*Signature of Company Secretary*

\_\_\_\_\_  
*Signature of Director*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

Executed by **XXXXXXXXXXXXXXXXXX** in accordance with section 127 of the *Corporations Act 2001*:

\_\_\_\_\_  
*Signature of Company Secretary*

\_\_\_\_\_  
*Signature of Director*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Printed Name*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*

# Short Use of System Agreement

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## SCHEDULE 1

**Network User:**

**Commencement Date:**

**Receipt Points:**

Bell Bay.	Longford.	Burnie.
Carrick, Hadspen.	Bridgewater.	Wynyard.
Buster Rd, Spreyton.	Westbury.	

**Addresses for Notices:**

Tas Gas: Tas Gas Networks  
5 Kiln Court  
St Leonards TAS 7250  
Attn: Commercial Manager

**Single Event Liability Amount:** \$100,000

**Annual Liability Amount:** \$250,000

**Disconnection charge** (refer clause 4.3)

The disconnection charges as at the Commencement Date are:  
(a) \$100.00 plus GST for any disconnection effected between 9am and 5pm on a Working Day; and  
(b) \$150.00 plus GST for any disconnection effected outside of the above hours.

Tas Gas may amend the charges as at 1 January during each year of this agreement to reflect movements in the CPI Index over the previous 12 months. Tas Gas will advise the Network User of the current charge on request from the Network User.

**Special meter read charge** (refer clause 4.4)

The charges for carrying out a special meter read as at the Commencement Date are:  
(a) \$100.00 plus GST for any special meter read carried out between 9am and 5pm on a Working Day; and  
(b) \$150.00 plus GST for any special meter read carried out outside of the above hours.

Tas Gas may amend the charges as at 1 January during each year of this agreement to reflect movements in the CPI Index over the previous 12 months. Tas Gas will advise the Network User of the current charge on request from the Network User.

# Gas Distribution Services Agreement

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Distributor

Tas Gas Networks Pty Ltd  
(ABN 91 104 499 569)

End-Consumer

**Add Name Here**  
(ABN)

Dated

**[Day Month Year]**

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## Change History

Issue	Date	Change
1.0	January 2017	New Document.
2.0	June 2019	Document reviewed, New Enwave Template; Section 6 updated.
3.0	17 December 2019	Updated version control.
4.0	10 May 2021	Tas Gas template.

# Gas Distribution Services Agreement

<b>DATED</b>	_____ day of _____, 20_____
<b>BETWEEN</b>	<b>Tas Gas Networks Pty Ltd</b> (ABN: 91 104 499 569) of 5 Kiln Ct, St Leonards, Tasmania 7250 ( <i>'Distributor'</i> )
<b>AND</b>	<b>&lt;insert name&gt;</b> (ABN: <b>&lt;insert number&gt;</b> ) of <b>&lt;insert address&gt;</b> <b>&lt;insert post code&gt;</b> ( <i>'End-Consumer'</i> )

## BACKGROUND

The Distributor constructs and operates the Network. The Distributor agrees to provide the Gas Distribution Services to the End Consumer on the terms set out in this Agreement.

The End-Consumer agrees to take Gas Distribution Services from the Distributor on the terms set out in this Agreement and the Standard Terms and Conditions.

## THE PARTIES AGREE AS FOLLOWS:

### 1. Term

- 1.1 This Agreement will commence on **[insert date]** ("Commencement Date") and unless terminated earlier in accordance with this Agreement) will expire on **[insert date]** ("Expiry Date").
- 1.2 The Start Date for the provision of Gas Distribution Services is **[insert date]** ("Start Date").

### 2. Provision of Gas Distribution Services

- 2.1 The Distributor agrees to provide, and the End-Consumer agrees to take the following services ("Gas Distribution Services") in respect of the Point of Connection at the Site (set out in clause 3 below) on the terms and conditions set out in this Agreement.

#### 2.2 Gas Distribution Services

The Distributor will, in accordance with the Agreement:

- a) maintain a connection to the relevant Transmission System at each Injection Point;
- b) allow End-Consumers' Equipment to be connected to and disconnected from the Network;
- c) allow the End-Consumer to off-take Gas from each Point of Connection;
- d) comply with the obligations, and retain the rights, of the Distributor as set out in Schedule 4 of the Standard Terms;
- e) install and maintain Metering Equipment at or near all Points of Connection; and
- f) comply with the obligations, and retain the rights, of the Distributor as set out in Schedule 5 of the Standard Terms.

### 3. Site and Point of Connection

The Site(s) covered by this Agreement, and the Points of Connection for each of those Sites, are those set out in Appendix 1.

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# Gas Distribution Services Agreement

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## 4. MHQ, NAQ and Pressure Range

- 4.1 The Maximum Hourly Quantity, Nominated Annual Quantity and the standard pressure range for each Point of Connection as at the Commencement Date are as specified in Appendix 1.
- 4.2 The Maximum Hourly Quantity, Nominated Annual Quantity and the standard pressure range for each Point of Connection may change from time to time as provided for in the Standard Terms.

## 5. Charges

- 5.1 The Fixed Monthly Charge for each Point of Connection, applying as at the Commencement Date, is as specified in Appendix 1.
- 5.2 The Variable Charge Rate payable for each gigajoule of gas off-taken at each Point of Connection, applying as at the Commencement Date, is as specified in Appendix 1.
- 5.3 The Charges may change from time to time to reflect statutory impositions and CPI increases in accordance with the Standard Terms.

## 6. Incorporation of the Standard Terms and Conditions

The Distributor's Standard Terms and Conditions for Gas Distribution Services (Version 7 dated 27 July 2021), as may be amended from time to time in accordance with the provisions of that document ("Standard Terms") are incorporated into and form part of this Agreement, and apply between the Distributor and End-Consumer, as if the same were set out in full in this Agreement. A copy of the Standard Terms has been provided to the End-Consumer. A current version of the Standard Terms is available at <https://www.tasgasnetworks.com.au>.

## 7. Other Applicable Terms

The Distributor and the End-Consumer agree that in addition to this Agreement and the Standard Terms and Conditions they are bound by the Gas Codes, Gas Regulations and Gas Standards.

## 8. Contact Details

The initial Contact Details for each party are as set out below:

Distributor		End-Consumer	
Name:	Tas Gas Networks Pty Ltd	Name:	
ACN:	104 499 569	ACN:	
Street Address:	5 Kiln Ct, St Leonards, Tasmania, 7250	Street Address:	
Postal Address:	PO Box 858, Launceston Tasmania, 7250	Postal Address:	
Website:	<a href="http://www.tasgasnetworks.com.au">www.tasgasnetworks.com.au</a>	Website:	
Contact Person:		Contact Person:	
Details: Phone		Details: Phone	
Mobile		Mobile	
Fax		Fax	
Email		Email	



# Gas Distribution Services Agreement

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## 9. Defined Terms

Words or phrases appearing in this Agreement (including the background) which are defined in the Standard Terms have the meanings given to those words and phrases in the Standard Terms.

### SIGNED AS AN AGREEMENT

Signed for and on behalf of  
**Tas Gas Networks Pty Ltd**

Signed for and on behalf of  
**[add name]**

---

*Signature*

---

*Signature*

---

*Printed Name*

---

*Printed Name*

---

*Title*

---

*Title*

---

*Date*

---

*Date*

## APPENDIX 1: CONTRACT DETAILS

### Part A: Contract Details

Site Details:	
Point of Connection/s:	
Maximum Hourly Quantity:	
Minimum Annual Quantity:	
Nominated Annual Quantity:	
Standard Pressure Ranges:	

### Part B: Charges

# GDSA Standard Terms and Conditions

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Distributor

**Tas Gas Networks Pty Ltd**  
**(ABN 91 104 499 569)**

**Version 7**  
**Dated: 27 July 2021**

# GDSA Standard Terms and Conditions

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## BACKGROUND

This document contains the standard terms and conditions applying to the provision of Gas Distribution Services by the Distributor to the End-Consumer. These standard terms and conditions are incorporated into the GDSA. The GDSA and the Standard Terms and Conditions are collectively referred to as this "Agreement".

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this Agreement, unless the context indicates otherwise, words defined in Schedule 8 will have the meanings therein specified.

#### 1.2 Interpretation

This Agreement will be interpreted in accordance with the rules of interpretation set out in Schedule 8.

### 2 TERM AND RENEWAL

#### 2.1 Initial Term

This Agreement will begin on the Commencement Date and will expire on the Expiry Date unless otherwise terminated in accordance with this Agreement.

#### 2.2 Extension of Term

If the End-Consumer wishes to continue to receive Gas over the Network to the Points of Connection after the Expiry Date the End-Consumer must advise the Distributor no later than 90 days before the Expiry Date and as soon as practicable the parties will meet to discuss in good faith the basis on which that should occur.

### 3 THE DISTRIBUTOR'S OBLIGATIONS

#### 3.1 Services the Distributor will provide

- (a) The Distributor will provide the Gas Distribution Services to the End-Consumer.
- (b) The Distributor does not warrant that the conveyance of Gas on the Network will be continuous or that Gas will be of any particular specification, temperature or pressure.
- (c) The Distributor will provide the Gas Distribution Services in accordance with Good Industry Practice and all applicable laws.

#### 3.2 Disconnection and Interruption to Conveyance

- (a) The Distributor may disconnect a Point of Connection from the Network if a Disconnection Event occurs in relation to that Point of Connection. The Distributor will use all reasonable endeavours to reconnect a Point of Connection disconnected pursuant to this clause 3.2(a) as soon as reasonably practicable once it is satisfied (acting reasonably) that the Disconnection Event had ceased or has been remedied (as the case may be).

# GDSA Standard Terms and Conditions

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- (b) The Distributor may interrupt or reduce the conveyance of Gas to any Point of Connection if an Interruption Event occurs in relation to that Point of Connection. Where practicable, the Distributor will use reasonable endeavours to ensure that any action it takes pursuant to this clause 3.2(b) conforms with any industry contingency plan or load shedding guidelines which it has agreed to. The Distributor will use all reasonable endeavours to restore the conveyance of Gas to a Point of Connection where the conveyance has been interrupted or reduced pursuant to this clause 3.2(b) as soon as reasonably practicable once it is satisfied (acting reasonably) that it is appropriate to do so.

### 3.3 Accessing End Consumer's Equipment

The Distributor may restrict the operation of the End-Consumer's Equipment as required to disconnect a Point of Connection or interrupt or reduce the conveyance of Gas (otherwise permitted under this Agreement) or as required (in the Distributor's reasonable opinion) to protect the health and safety of persons or to prevent damage to property or the Network. If the Distributor takes any such action and it may materially impact the End-Consumer, the Distributor will use all reasonable endeavours to inform the End-Consumer as soon as reasonably practicable.

### 3.4 Supply of information

The Distributor will make available to the relevant parties under the Reconciliation Code such data from Metering Equipment as required by the Reconciliation Code.

## 4 END CONSUMER'S OBLIGATIONS

### 4.1 End Consumer's obligations

The End-Consumer must comply with Good Industry Practice and all applicable laws.

### 4.2 Interference with the Network

The End-Consumer must:

- (a) not interfere with the Network or cause or permit any person, material or device to do so;
- (b) not interfere with the Distributor's Equipment, except to the extent that action has to be taken to protect the health and safety of persons or to prevent material damage to property and it was not practicable for the Distributor to have responded to the occurrence or circumstance that endangered persons or property. In the event of such interference the End-Consumer will use all reasonable endeavours to immediately inform the Distributor of the occurrence and circumstances;
- (c) not inject or attempt to inject any Gas into the Network;
- (d) not convey or receive or attempt to convey or receive any signal or other form of communication or any other thing (other than Gas pursuant to this Agreement) over the Network or cause or permit any other person to do so; and
- (e) provide and maintain, at no cost to the Distributor, suitable space for the secure housing of any of the Distributor's Equipment relating to the connection to the

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# GDSA Standard Terms and Conditions

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Network of the Points of Connection which Distributor's Equipment the Distributor requires be housed at the End-Consumer's Premises.

## 4.3 Supply of Information

To enable the Distributor to perform its obligations under:

- (a) this Agreement;
- (b) any agreement between the Distributor and any Gas Retailer;
- (c) any agreement between the Distributor and the Transmission System Operator;
- (d) the Reconciliation Code; and
- (e) any Gas Code,

the End-Consumer will make available or will ensure that its Gas Retailer will make available to the Distributor in the form specified by the Distributor acting reasonably, and at the times specified by the Distributor on reasonable notice, such information as the Distributor may in its opinion require (including, without limitation, estimates and projections of Gas that is likely to be consumed at the Points of Connection). The End-Consumer must ensure any information it provides is accurate and complete or, where the information is an estimate, then is the End-Consumer's best estimate prepared on a reasonable basis.

## 5 ACCESS

### 5.1 Rights of Access

The End-Consumer grants to the Distributor (and its employees, contractors, agents and invitees) the right of safe and unobstructed access to and within the Site(s) in accordance with the Site(s) entry policies and procedures for the purposes of:

- (a) installing, testing, inspecting, maintaining, repairing, replacing, operating, reading or removing any Metering Equipment or other equipment belonging to the Distributor (or its employees, contractors, agents and invitees) which may be installed at the Site(s) pursuant to this Agreement or any prior agreement between the Distributor and an occupier of the Site;
- (b) ascertaining the cause of any interference to the quality of Gas or services being supplied by the Distributor to any person;
- (c) preventing danger or damage to persons or property;
- (d) connecting or disconnecting the supply of Gas to any Point of Connection; or
- (e) exercising the Distributor's rights and benefits or discharging its obligations under or in relation to this Agreement or at law.

### 5.2 Use of Facilities

The End-Consumer grants to the Distributor (and its employees, contractors, agents and invitees) rights of reasonable use of facilities and amenities available to the End-Consumer and ordinarily used in association with the Distributor's Equipment at the End-Consumer's Premises (including, without limitation, the provision of suitable space at the End-Consumer's

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# GDSA Standard Terms and Conditions

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Premises for the safe and secure housing of the Distributor's Equipment which is satisfactory to the Distributor).

## 5.3 Exercise of Rights

In exercising its rights of access under clause 5.1 and clause 5.2 the Distributor will:

- (a) where practicable, give the End-Consumer not less than 24 hours' notice of its intention and the purpose for which it proposes to exercise its rights of access, provided that the Distributor will be at liberty to take all reasonable steps to gain immediate access where it reasonably believes there is immediate danger to person or property;
- (b) procure that its representatives carry appropriate identification to identify themselves as the Distributor's employees, contractors, agents or invitees;
- (c) show respect for and cause as little inconvenience to the End-Consumer as is practicable; and
- (d) observe the End-Consumer's reasonable practices and procedures for entering and occupying the Site(s).

## 5.4 Survival of Rights

The Distributor's rights of access under clause 5.1 are in addition to any rights of access the Distributor may have at law and will survive for a period of 6 months following termination or expiry of this Agreement to enable the Distributor (or its employees, contractors, agents and invitees) to gain access to and (if the Distributor at its absolute discretion elects to do so) remove equipment belonging to the Distributor.

## 6 CHARGES

### 6.1 Obligation to pay the Charges

The End-Consumer will pay the Distributor the Charges as provided in Schedule 1.

### 6.2 Amendment of the Charges

- (a) The Distributor will adjust the Charges annually on and from 1 January in each year to reflect CPI increases as provided for in Schedule 1.
- (b) The Distributor may adjust the Charges from time to time to reflect a Change in Law in accordance with Schedule 1.
- (c) In addition to changes under clause 6.2(a) and clause 6.2(b), the Charges may be changed if the Distributor and End-Consumer agree to the change. For example, if the Maximum Hourly Quantity applicable to the Point of Connection is likely to be exceeded, the Distributor and End-Consumer may agree to change the Charges to reflect the expenditure (and cost of financing the same) the Distributor is likely to incur to increase the capacity of the Network to meet the maximum expected peak network usage.

### 6.3 Prudential Requirements

The End-Consumer must comply with the prudential requirements set out in Schedule 3.

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# GDSA Standard Terms and Conditions

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## 6.4 Invoicing and Payment

The Distributor will invoice the End-Consumer for the Charges (plus GST) and the End-Consumer will pay the invoice, in accordance with the billing and settlement procedure set out in Schedule 2.

## 6.5 The Distributor's Rights on the End Consumer's Failure to Pay

- (a) Subject to clause 4.1 of Schedule 2, without limiting any other right of the Distributor (whether under this Agreement or otherwise) if the End-Consumer fails to pay any amount set out in any invoice issued by the Distributor under this Agreement by the due date for payment the End-Consumer will be in default under this Agreement and the Distributor may do any or all of the following:
  - (i) the Distributor may require the End-Consumer to pay, on demand, Default Interest on the amount unpaid; and
  - (ii) if the amount remains unpaid after 10 Working Days' notice by the Distributor to the End-Consumer, the Distributor may draw upon any Credit Support held by the Distributor, but only in respect of amounts due by the End-Consumer to the Distributor.
- (b) The charging of Default Interest under clause 6.5(a)(i) will in no way imply the granting of an extension of credit by the party to whom the interest is payable.

## 7 TAXES AND GST

### 7.1 Payment of GST, Taxes and Duties

In addition to any other charges under this Agreement the End-Consumer shall pay:

- (a) subject to being issued with a valid tax invoice, GST which the Distributor is liable to pay in respect of any supply made by the Distributor under this Agreement, at the same time as payment is due to be made by the End-Consumer for such supply; and
- (b) any other tax, duty, impost or levy which may from time to time become payable on Gas or the conveyance or supply of Gas or any other matter or payment under this Agreement, on demand (by the inclusion of the amount payable in any invoice).

### 7.2 Withholding

If the End-Consumer is required by law to make any deduction or withholding from any amount payable under this Agreement, then:

- (a) any such deduction or withholding by the End-Consumer shall not exceed the legal minimum and the End-Consumer shall pay the amount required to be deducted or withheld to the relevant taxation or other authority by the applicable due date; and
- (b) the End-Consumer shall deliver to the Distributor any receipt issued by the relevant taxation or other authority evidencing that such deduction or withholding has been made.

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## 8 CHANGES TO THIS AGREEMENT

### 8.1 Amendment Rights

The Distributor is entitled to amend any provision of this Agreement by giving the End-Consumer not less than 30 days' notice:

- (a) if the Distributor and the End-Consumer agree to the amendment;
- (b) if the amendment is required to reflect any Change in Law; or
- (c) as described in clause 8.2.

### 8.2 Minor Changes

The Distributor is entitled to amend any provision of this Agreement where the amendment has no material effect on the nature of the contractual undertakings of the parties (for example terminology changes to accord with new industry classifications or definitions), by written notice to the End-Consumer.

## 9 LIABILITY

### 9.1 Acts which are not breaches

- (a) The Distributor is not in breach of this Agreement or otherwise liable to the End-Consumer if it fails (in whole or in part) to convey Gas to the End-Consumer, or fails to discharge an obligation under this Agreement, due to or arising from:
  - (i) the failure of the End-Consumer or another person (not being a Representative of the Distributor) to observe or comply with the requirements of Good Industry Practice;
  - (ii) a failure or reduction of injection or supply of Gas into the Network;
  - (iii) any defect or abnormal conditions in or about the End-Consumer's Premises;
  - (iv) an action by the Distributor permitted by this Agreement which results in a reduction in the conveyance of Gas;
  - (v) any act or omission of any Transmission System Operator;
  - (vi) Off-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas entering the Network unless the Distributor has agreed to accept that Off-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas;
  - (vii) any accident or cause beyond the Distributor's control.
- (b) The End-Consumer is not in breach of this Agreement or otherwise liable to the Distributor if it fails to discharge an obligation under this Agreement due to or arising from:
  - (i) the Distributor's failure to comply with this Agreement; or

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- (ii) any defect or abnormal conditions in the Network (not caused by the act or omission of the End-Consumer).

### 9.2 Scope of Liability

- (a) Subject to the *Competition and Consumer Act 2010* (Cth) and the express provisions of this Agreement, all warranties, terms and conditions in relation to the provision of the Gas Distribution Services, or any other product or service, which may be otherwise implied by use, statute or otherwise are, to the extent they may lawfully be, excluded.
- (b) The only monetary consequence of a failure by the Distributor in breach of this Agreement (or due to the Distributor's negligence or other wrongful act or omission) to deliver Gas to the End-Consumer will be that the Minimum Annual Quantity for the relevant Year will be reduced by the quantity of Gas the Distributor failed to deliver due to that breach, negligence or other wrongful act or omission.
- (c) The only liability of the Distributor to the End-Consumer under or in connection with this Agreement or otherwise arising from or in connection with the relationship between them (whether by virtue of contract, tort (including negligence) or on any other basis whatsoever ) will be for the cost of repair or replacement of physical property damaged or destroyed by the Distributor's breach of this Agreement, negligence or other wrongful act or omission and for injury or loss of life to a person where such injury, loss or damage has been caused by the Distributor's breach of this Agreement, negligence or other wrongful act or omission.
- (d) Without limiting any other provision of this Agreement, except pursuant to the indemnity in clause 9.4 and in clause 9.5 and the indemnities in Schedule 4, neither party will be liable for:
  - (i) any loss of profit, loss of revenue, loss of use, loss of opportunity, loss of contract or loss of goodwill of any person;
  - (ii) any indirect or consequential loss;
  - (iii) any loss resulting from liability to any third party except for liability for costs of repair or replacement of damaged or destroyed third party property and liability for injury or loss of life caused to a third party; or
  - (iv) any loss resulting from loss or corruption of or damage to any electronically-stored or electronically-transmitted data or software,provided nothing in this clause 9.2(d) limits the End-Consumer's obligation to pay the Distributor any amounts due under this Agreement (or which would have accrued due but for the End-Consumer's breach of this Agreement) or the End-Consumer's liability to the Distributor because the Distributor does not receive such amounts (including amounts not received due to the early termination of this Agreement).
- (e) Except as provided in clauses 9.2(c) and 9.2(f), the Distributor's liability to the End-Consumer whether in tort (including negligence), contract, breach of statutory duty, equity or otherwise arising from or in connection with this Agreement or the relationship between them and of any nature whatsoever is excluded to the fullest extent permitted by law.

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- (f) This clause 9 does not limit the Distributor's liability to the End-Consumer under the Australian Consumer Law guarantees (if any) which apply to this Agreement (being the guarantees set out in Division 1 of Part 3.2 of the Australian Consumer Law). However, to the extent permitted by law the Distributor's liability for breach of any such guarantee which does apply to this Agreement is limited to (as elected by the Distributor) the resupply of, or payment of the cost of resupply of, the services in respect of which the guarantee was breached.
- (g) Nothing in this Agreement varies or excludes the fact that the Distributor is not liable to a penalty or damages for failing to convey gas through its distribution pipeline if the failure arises out of any accident or cause beyond the control of the Distributor.

### 9.3 Quantum of Liability

Subject to the application of clause 9.2(f), the maximum total liability of the Distributor and the Distributor's Representatives to the End-Consumer and of the End-Consumer and the End-Consumer's Representatives to the Distributor under or in connection with this Agreement or otherwise arising from the relationship between them will be:

- (a) subject to clause 9.3(b), in respect of a single event or series of events arising from the same event or circumstance, for each Point of Connection the Single Event Liability Amount; and
- (b) in respect of all events or circumstances occurring in any Year, for all Points of Connection the Annual Liability Amount,

provided that the above limitations do not apply to:

- (c) the indemnities in clause 9.4 and 9.5; and
- (d) the End-Consumer's obligation to pay the Distributor any amounts due under this Agreement (or which would have accrued due but for the End-Consumer's breach of this Agreement) or the End-Consumer's liability to the Distributor because the Distributor does not receive such amounts (including amounts not received due to the early termination of this Agreement).

### 9.4 Indemnity

The Distributor will be indemnified and be kept indemnified by the End-Consumer in respect of all reasonable expenses, costs (including legal costs on a solicitor/own-client basis), losses, liabilities and claims suffered or incurred by the Distributor arising out of or in connection with:

- (a) any claim by any person to the extent that the claim arises from or could not have been made but for:
  - (i) any breach by the End-Consumer of its obligations under this Agreement;
  - (ii) the disconnection of a Point of Connection in accordance with this Agreement;
  - (iii) any failure by the End-Consumer to perform any obligation pursuant to any agreement between the End-Consumer and any Gas Retailer or other third party or otherwise arising at law; or

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- (iv) any action undertaken by the Distributor under or in connection with this Agreement at the request of the End-Consumer but excluding any action carried out by the Distributor in a negligent or unlawful manner; and
- (b) any recovery activity in respect of any unpaid Charges or interest payable under this Agreement.

## 9.5 Claims by Related Bodies Corporate

The Distributor's sole liability under this Agreement is to the End-Consumer. Where the End-Consumer allows a Related Body Corporate to use Gas at the Site the Distributor has no liability to the Related Body Corporate in respect of such Gas or in respect of any failure or reduction in the delivery of such Gas of any nature and howsoever caused (including if caused by the Distributor's breach of this Agreement, negligence or other wrongful act or omission). The End-Consumer must:

- (a) ensure no Related Body Corporate of the End-Consumer brings any claim against the Distributor in connection with the Gas delivered under this Agreement or any failure or reduction in the delivery of such Gas; and
- (b) indemnify and keep the Distributor indemnified against any claims by such a Related Body Corporate of any nature which claims relate to or are in connection with the Gas supplied under this Agreement or any failure or reduction in the supply of such Gas.

## 9.6 Representatives

- (a) Any limitations and exclusions of a party's liability in this clause 9 also apply for the benefit of the party's Representatives (as though references in the relevant provision to the party were to its Representatives).
- (b) Each party holds clause 9.6(a) on trust for each of its Representatives. However, despite that trust a party may agree to amendments to this Agreement without requiring the consent of the Representative.

## 10 FORCE MAJEURE

### 10.1 Notice and Suspension of Obligations

If a party to this Agreement is affected, or likely to be affected, by a Force Majeure Event:

- (a) that party must promptly give the other party notice of that fact including:
  - (i) full particulars of the Force Majeure Event;
  - (ii) an estimate of its likely duration;
  - (iii) the obligations affected by it and the extent of its effect on those obligations; and
  - (iv) the steps taken to rectify or mitigate it; and
- (b) the obligations under this Agreement of the party giving the notice (other than obligations to pay money) are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

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## 10.2 Effort to Overcome

A party claiming a Force Majeure Event must use its reasonable endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. However, this does not require a party to settle any industrial dispute in any way it does not want to.

## 11 CONFIDENTIALITY

### 11.1 Confidential Information

Each party will keep confidential the terms of this Agreement and all information provided by the other party and will not:

- (a) disclose those terms or any of that information to any other person; or
- (b) use any of the information for any purpose other than to give effect to that party's rights or obligations under this Agreement,

except as provided in clause 11.2.

### 11.2 Exceptions

Clause 11.1 does not apply to the disclosure of the terms of this Agreement or of information in the following circumstances:

- (a) to employees, legal advisers, auditors and other consultants provided they have agreed to be bound by an obligation of confidence of the same scope and effect as set out in clause 11.1;
- (b) where disclosure is expressly permitted under this Agreement or with the prior written consent of the party that supplied the information;
- (c) where disclosure is required by law or the requirements of any stock exchange;
- (d) where disclosure is required in connection with any legal proceedings, mediation or arbitration relating to this Agreement;
- (e) where disclosure is to a financier or potential acquirer of all or part of the Distributor's business or End-Consumer's business;
- (f) where the information is generally and publicly available other than as a result of a breach of confidence by the party receiving the information; and
- (g) disclosure by the Distributor to a Gas Retailer or a Transmission System Operator in connection with activities that the Distributor undertakes to enable distribution of Gas under this Agreement.

## 12 TERMINATION

### 12.1 General Conditions

This Agreement will terminate on the earlier of:

- (a) 30 days after notice is given by the Distributor to the End-Consumer terminating this Agreement for reason of an Event of Default occurring in relation to the End-Consumer;

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- (b) 30 days after notice is given by the End-Consumer to the Distributor terminating this Agreement for reason of an Event of Default occurring in relation to the Gas Distribution Services provided no notice may be issued if the Event of Default is subject to the procedure set out in clause 13 or if the Distributor is using commercially reasonable endeavours to cure the Event of Default;
- (c) the day after notice is given by either party to the other party terminating this Agreement for the reason that performance of any material provision of this Agreement by either party has to a material extent become illegal and the parties acting reasonably agree that it is not practicable for this Agreement to continue;
- (d) the 11th Working Day after notice is given by either party to the other terminating this Agreement for the reason that an event of Force Majeure, which has resulted in the party's failure to perform a material obligation under this Agreement, is of such magnitude or duration that it is impracticable or unreasonable for the party giving notice to remain bound by its obligations under this Agreement (provided that such notice may not be given until the event of Force Majeure has been in continuous effect for at least 6 months);
- (e) the day after the Distributor gives notice to the End-Consumer that the Distributor has ceased to be a licensed Gas distributor under the *Gas Industry Act 2019*; and
- (f) the Expiry Date.

### 12.2 Effect of Termination

Upon termination (including expiration) of this Agreement, other than to the extent provided in any other agreement between the Distributor and the End-Consumer:

- (a) unless otherwise agreed, each party will return to the other party all property of that party held by the first party;
- (b) the End-Consumer will cease its use of the Network and the Distributor:
  - (i) may (but (subject to any law to the contrary) is not obliged to) disconnect all or any of the Points of Connection from the Network and may (but (subject to any law to the contrary) is not obliged to) remove any of the Distributor's Equipment at the End-Consumer's Premises; and
  - (ii) will cease to provide Gas Distribution Services in respect of those Points of Connection;
- (c) the End-Consumer will provide to the Distributor all information relating to the consumption of Gas at any of the Points of Connection that the Distributor may reasonably require in order to determine the Charges outstanding at the time of termination.

### 12.3 Cost of Disconnection

Where the Distributor disconnects any Point of Connection or removes the Distributor's Equipment pursuant to clause 12.2(b), the costs of disconnection and removal will be met by the Distributor except if the parties otherwise agree and except where this Agreement has been terminated by the Distributor due to an Event of Default occurring in relation to the End-

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Consumer, in which case any such disconnection and removal will be at the End-Consumer's cost.

## 12.4 No Waiver

Termination of this Agreement will not operate as a waiver of any breach of this Agreement or any other agreement by either of the parties and will be without prejudice to any rights, liabilities or obligations of either party which have accrued up to the date of termination. This clause 12.4 and clauses 5.3, 9, 10, 11, 13 and 14 together with any other provisions which expressly or by implication are intended to survive termination, will continue in full force and effect notwithstanding termination.

## 12.5 Foregone Revenue

If this Agreement is terminated by the Distributor due to an Event of Default in respect of the End-Consumer then the losses and damages the Distributor may recover from the End-Consumer include the foregone charges revenue which the Distributor will no longer receive due to the early termination of this Agreement less any costs avoided by the Distributor due to the early termination of this Agreement.

## 13 RESOLVING DISPUTES

### 13.1 Requirement to Follow Procedures

Where any dispute or difference arises between the parties concerning this Agreement, no party may commence any proceedings unless that party has complied with the procedures set out in this clause 13.

### 13.2 Escalation to CEOs

If any dispute or difference arises between the parties concerning this Agreement, either party may give notice to the other party. If the dispute or difference is not resolved by discussion between operational staff within 20 Working Days of notice being given, the matter is to be referred to the Chief Executives of the parties (or their nominees) for resolution.

### 13.3 Mediation

If the dispute or difference cannot be resolved by the Chief Executives within 15 Working Days of the matter being referred to them, either party may require the matter to be referred to mediation by notice to the other party setting out the general nature of the difference.

### 13.4 Appointment of Mediator

Within 10 Working Days of receipt of the notice referring the dispute to mediation the parties will agree on the appointment of a mediator or, where they cannot agree within that timeframe, a mediator will be appointed by the President for the time being of the Law Society of Tasmania. In consultation with the mediator, the parties will determine a location, timetable and procedure for the mediation or, if the parties cannot agree, these matters will be determined by the mediator.

### 13.5 Representatives

Each of the parties will appoint a representative who will have authority to reach an agreed solution and effect settlement.

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### **13.6 Act in Good Faith**

In all matters relating to the mediation notice, the parties and their representatives will act in good faith and use all reasonable endeavours to ensure the expeditious completion of the mediation procedure.

### **13.7 Without Prejudice**

All proceedings and disclosures in the course of the mediation will be conducted and made without prejudice to the rights and positions of the parties in any subsequent arbitration or other legal proceedings.

### **13.8 Non-binding Outcome**

Any decision or recommendation of the mediator will not be binding on the parties in respect of any matters other than the method for conduct of the mediation.

### **13.9 Mediation Costs**

The costs of the mediation, other than the parties' legal costs, will be borne equally by the parties, who will be jointly and severally liable to the mediator in respect of the mediator's fees.

### **13.10 Arbitration**

If the difference between the parties is not resolved through mediation within 60 days of the appointment of a mediator, the matter will be referred to arbitration under the Commercial Arbitration Act 2011 before a sole arbitrator and in relation to any such arbitration, the following provisions will apply:

- (a) in addition to the stated methods of giving notice, facsimile will also be permitted;
- (b) the parties will endeavour to agree the choice of an arbitrator and failing agreement, the arbitrator will be appointed by the President of the Law Society of Tasmania;
- (c) the venue of the arbitration will be Hobart; and
- (d) the arbitrator will not appoint any expert to advise except with the written consent of both parties.

### **13.11 Injunctive Relief**

Nothing in this clause 13 will preclude either party from taking immediate steps to seek urgent injunctive or equitable relief before an appropriate court.

## **14 OWNERSHIP**

### **14.1 The Network**

The Network (including any part of the Network situated on the End-Consumer's Premises) and any of the Distributor's Equipment at the End-Consumer's Premises, is and will remain the sole property of the Distributor. No provision of this Agreement nor the provision of any services by the Distributor in relation to the Network will confer on the End-Consumer or any other person any right of property or other interest in or to any part of the Network or any Fittings owned or controlled by the Distributor which are used to provide any such services.

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## 14.2 Capacity

Nothing in this Agreement confers on the End-Consumer any ownership of capacity in relation to the Network.

## 15 GENERAL

### 15.1 Compliance with Laws and Reconciliation Code

Each party will comply with the requirements of all applicable legislation including the Gas Acts and any regulations and codes made under the Gas Acts, as amended or replaced from time to time.

### 15.2 Costs

Each party must pay its own expenses incurred in negotiating and executing this Agreement.

### 15.3 Partial Invalidity

The provisions of this Agreement will apply to the extent that they are permitted by and are not in conflict with any statutory requirements for the Network and the supply of Gas (including the Gas Codes, Gas Regulations and Gas Standards). Except as provided in clause 12.1(c), the illegality, invalidity or unenforceability of a provision of this Agreement under any law binding in Tasmania, will not affect the legality, validity or enforceability of that provision under another law or the legality, validity or enforceability of any other provision of this Agreement.

### 15.4 Inconsistency with Applicable Laws

If there is any inconsistency between a party's rights and obligations under this Agreement and its obligations or rights under any applicable laws, then its rights and obligations under the applicable laws will prevail to the extent mandatorily required by those laws.

### 15.5 Assignment and Sub-contracting

- (a) The Distributor may sub-contract any of its obligations under this Agreement but will remain liable in accordance with this Agreement for the sub-contractor's default. The Distributor may assign or novate its rights and obligations under this Agreement without the consent of the End-Consumer and the End-Consumer must execute such documentation as the Distributor requires to give effect to any such assignment or novation.
- (b) In the event that the End-Consumer sells the business operated from the Site, or sells the Site, or sells the assets using Gas at the Site, the End-Consumer must ensure that the purchaser assumes (by way of a deed in a form satisfactory to the Distributor and to which the Distributor is party) the obligations of the End-Consumer under this Agreement and takes an assignment of this Agreement with effect from the time of sale. However, the End-Consumer will remain liable to ensure the discharge by the purchaser of all obligations under this Agreement unless the Distributor agrees to release the End-Consumer from those obligations (which the Distributor will do if satisfied that the purchaser has financial and technical capacity equal to or greater than that of the End-Consumer as at the date of entry into this Agreement). As from the time of the assignment the Distributor's sole liability in

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relation to or in connection with this Agreement (on any basis whatsoever) will be to the purchaser.

- (c) Except as contemplated by clause 15.5(b), the End-Consumer may not assign, novate or otherwise deal with its rights or obligations under this Agreement without the prior written consent of the Distributor, which consent will not be unreasonably withheld.

### 15.6 Warranties

Each party represents and warrants that:

- (a) it has full legal capacity and power to:
  - (i) own its own property and to carry on its business; and
  - (ii) enter into this Agreement and to carry out the transactions that this Agreement contemplates;
- (b) it has taken all corporate action that is necessary or desirable to authorise its entry into this Agreement and its carrying out the transactions that this Agreement contemplates;
- (c) it holds each authorisation that is necessary or desirable to:
  - (i) enable it to properly execute this Agreement and to carry out the transactions that this Agreement contemplates;
  - (ii) ensure that this Agreement is legal, valid, binding and admissible in evidence; or
  - (iii) enable it to properly carry on its business,and it is complying with any conditions to which any of these authorisations is subject;
- (d) this Agreement constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally).

### 15.7 Acknowledgements

The End-Consumer and the Distributor acknowledge that:

- (a) they have executed this Agreement and agreed to take part in the transactions that this Agreement contemplates in reliance on the representations and warranties that are made or repeated in this Agreement; and
- (b) they have not relied, and will not rely, on any representation, statement or promise made by or on behalf of either the End-Consumer or the Distributor, other than those expressly made in this Agreement, in deciding to enter into this Agreement or to exercise any right or perform any obligation under it.

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### **15.8 Amendment to this Agreement**

Except as provided in this Agreement, no variations or modifications to this Agreement will be effective unless made in writing and signed by or on behalf of both parties.

### **15.9 Entire Arrangement**

This Agreement and any document expressly incorporated into this Agreement:

- (a) contains all terms of the arrangement between the parties with respect to the subject matter of this Agreement; and
- (b) supersedes and extinguishes all prior agreements, discussions and arrangements between the parties with respect to the subject matter of this Agreement (but, for the avoidance of doubt, except to the extent that any prior written agreement states that provisions of that agreement are expressly or by implication intended to survive termination of that agreement and continue in force despite the execution of this Agreement).

### **15.10 No Implied Terms**

All terms and conditions relating to the subject matter of this Agreement that are, or may at any time be, implied by law or custom are excluded to the maximum extent permitted by law except to the extent they are expressly incorporated into this Agreement.

### **15.11 Non-waiver**

Nothing in this Agreement will be considered to be waived by either party except when such waiver is given in writing.

Failure or omission by a party at any time to enforce or require strict or timely compliance with any provision of this Agreement will not affect or impair that provision in any way or the rights of that party to avail itself of the remedies it may have in respect of any breach of that provision or any other provision.

### **15.12 No Third Party Rights**

Except as expressly provided in this Agreement, the parties do not intend to create rights in or grant remedies to any third party as a beneficiary of this Agreement and this Agreement will be for the sole and exclusive benefit of the parties.

### **15.13 Further Assurances**

Each party undertakes to do all acts and things and execute all deeds and documents which may be required to be executed to carry out or give effect to this Agreement.

### **15.14 Notices**

Any notice required to be served pursuant to this Agreement will be in writing executed by the party giving the notice or signed on behalf of that party by any officer, authorised manager or solicitor of that party and served at the address or to the facsimile number or e-mail address and to the attention of the person as set out in the Contact Details section of the GDSA or as otherwise notified in writing by the other party from time to time. Any notice or document will be deemed to be duly given or made if:

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- (a) delivered by hand, when so delivered;
- (b) sent by email, when so sent unless a delivery failure is received by the sender; or
- (c) sent by post, on the fifth Working Day following posting.

### **15.15 Relationship**

Nothing in this Agreement should be interpreted as constituting either party an agent, partner or employee of the other and neither party may pledge the credit of the other nor represent to anyone that:

- (a) it is the other party or is an agent, partner or employee of the other party; or
- (b) it has any power or authority to incur any obligation of any nature on behalf of the other party.

### **15.16 Governing Law**

This Agreement is governed by the law in force in Tasmania. Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Tasmania, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Agreement, and waives any right it might have to claim that those courts are an inconvenient forum.

### **15.17 Anti-Bribery Laws**

Each party will ensure that it is aware of all of its obligations under anti-bribery laws, as applicable and comply with their requirements.

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## SCHEDULE 1: CHARGES

### 1 INTRODUCTION

#### 1.1 Services Covered by Charges

The Charges are designed to cover the cost of providing the Gas Distribution Services and provide the Distributor with a commercial return on its investment in the Network.

#### 1.2 Services not Covered by Charges

The Charges do not cover and the Distributor does not provide services to the End-Consumer relating to:

- (a) the cost of acquiring Gas or Off-Specification Gas;
- (b) Gas transmission costs (charged by the Transmission System Operator);
- (c) Unaccounted for Gas (UFG);
- (d) reading of meters and/or Time of Use Devices (as defined in Schedule 5) by the End-Consumer's Gas Retailer; or
- (e) reconciliation/Allocation services.

#### 1.3 Charges Structure

The structure of the Charges for each Point of Connection is a simple fixed monthly charge (**Fixed Monthly Charge**) and a variable charge (\$/GJ).

### 2 CHARGES

#### 2.1 Commencement, Adjustment and GST

As at the Commencement Date the Charges are the amounts set out in Appendix 1 of the GDSA. The Charges are adjusted from time to time in accordance with clauses 3 and 4 of this Schedule 1. The Charges do not include GST, which is payable in addition to the Charges (see clause 7 of this Agreement).

#### 2.2 Fixed Monthly Charge

The Fixed Monthly Charge for each Point of Connection as at the Commencement Date is as specified in the GDSA.

#### 2.3 Variable Charge

The End-Consumer will pay a variable charge rate per gigajoule (the **Variable Charge Rate**) of Gas off-taken at each Point of Connection. The initial Variable Charge Rate, applying as at the Commencement Date, is as specified in the GDSA.

#### 2.4 Minimum Annual Variable Charge

If, on each anniversary of the Commencement Date, the aggregate of all the gigajoules of Gas off-taken at the Point(s) of Connection for the preceding Year of the Term is less than the

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Minimum Annual Quantity (**MAQ**) then the End Consumer must pay the Distributor an amount (**Minimum Annual Variable Charge**) calculated as follows:

$$\text{\$} = (\text{MAQ} - \text{GJT}) \times \text{VCY}$$

where:

GJT = the aggregate of all the gigajoules of Gas consumed at the Point(s) of Connection during the Year.

VCY = the Variable Charge Rate applicable on the last day of the Year.

MAQ = the Minimum Annual Quantity as detailed in the Gas Distribution Services Agreement.

### 2.5 Take or Pay Relief – Distributor Fault

Where in any Year during the Term, the Distributor fails to deliver to the Point(s) of Connection a quantity of Gas to the End-Consumer due to the Distributor's breach of this Agreement, negligence or other act or omission which is wrongful at law the Minimum Annual Quantity for that Year will be reduced by the quantity of Gas the Distributor failed to supply for such reasons.

## 3 CONSUMER PRICE INDEX ADJUSTMENT OF CHARGES

### 3.1 CPI Adjustment

The Fixed Monthly Charge and the Variable Charge Rate will be adjusted with effect on and from each 1 January (**Adjustment Date**) commencing with the first 1 January after the date of execution of this Agreement in accordance with the following formula:

$$C_n = C_{n-1} \left( 1 + \left( \frac{CPI_n - CPI_{n-1}}{CPI_{n-1}} \right) \right)$$

where:

$C_n$  = is the relevant charge (that is the Fixed Monthly Charge or the Variable Charge Rate) applying on and from the relevant Adjustment Date;

$C_{n-1}$  = is the relevant charge applying immediately prior to the relevant Adjustment Date;

$CPI_n$  = the CPI figure for the quarter ended 31 December in the year ending immediately prior to the Adjustment Date;

$CPI_{n-1}$  = the CPI figure for the quarter ending 12 months prior to the quarter referred to in the definition of  $CPI_n$ .

Where the application of the above formula on an Adjustment Date would result in  $C_n$  being less than  $C_{n-1}$  then  $C_n$  for that Adjustment Date will be taken to equal  $C_{n-1}$ .

For the purposes of the above formula, **CPI** means the Consumer Price Index (All Groups), Weighted Average of Eight Capital Cities as first published for a quarter by the Australian Bureau of Statistics provided that if that index is no longer published then:

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- (a) CPI will be another index that the parties agree to adopt; or
- (b) if the parties do not agree on another index, CPI will be the index nominated by the Australian Government Statistician as the index which is closest in its scope and operation to the Consumer Price Index (All Groups), Weighted Average of Eight Capital Cities,

and provided further that if there is an adjustment to the reference base year of any relevant index, then for the purposes of this Agreement an arithmetic adjustment is to be made to each relevant index number so as to negate the effect of the adjustment.

### 4 ADJUSTMENT TO GAS CHARGE TO REFLECT CHANGE IN LAW

#### 4.1 Definitions

For the purposes of this clause 4:

- (a) an **Approval** means a licence, permit, consent, certificate, approval or other authorisation required to be obtained pursuant to Law to perform an act or discharge an obligation;
- (b) a **Carbon Cost** means any cost, expense or loss of benefit arising from or in connection with a Carbon Scheme, whether direct or indirect and including the costs of creating, producing, acquiring or surrendering any right or instrument and increases in the costs of goods and services provided to or acquired or used by the Distributor;
- (c) a **Carbon Scheme** means any scheme with respect to the emission of any greenhouse gas (as defined in the *National Greenhouse and Energy Reporting Act 2007* (Cth)) or which has as one of its objectives a cap on or the reduction, offset or management of emissions of greenhouse gas;
- (d) a **Change in Approval** means the amendment, revocation or issue of an Approval or a change in the application or interpretation of the terms of any Approval;
- (e) a **Change in Impost** means:
  - (i) the imposition of a new Impost or the abolition of an Impost;
  - (ii) an increase or reduction in the rate of an Impost; or
  - (iii) a change in the basis of calculation of an Impost;
- (f) a **Change in Law** means the enactment, amendment, repeal, revocation or change in the application or interpretation of any Law, irrespective of whether the potential for that change to occur was known prior to the date of this Agreement, and includes a Change in Impost and a Change in Approval;
- (g) a **Relevant Cost** means an amount or liability (including any Impost or Carbon Cost) required to be paid or incurred by the Distributor or a Related Body Corporate of the Distributor, directly or indirectly, in respect of the operation or maintenance of the Network, the conveyance of Gas or the activities required to be undertaken by the Distributor to discharge its obligations under this Agreement;

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- (h) an **Impost** means any present or future royalty (whether based on value, profit or otherwise), tax (excluding income tax but including an environmental tax or the like), Carbon Scheme, excise, levy, fee, rate or charge imposed by the Commonwealth of Australia, a State Government or any Government Body or other body authorised by Law to impose that Impost other than stamp, registration, documentation or similar tax;
- (i) **Law** includes the provisions of all:
  - (i) statutes, orders, regulations and by-laws;
  - (ii) decrees, directives and rules of any government or Government Body; and
  - (iii) the common law and equity.

### 4.2 Effect of Change in Law

If, at any time after the date of execution of this Agreement, a Change in Law occurs that increases the Distributor's Relevant Costs or imposes on the Distributor a new Relevant Cost and that amount is not to be reimbursed to the Distributor under any other provisions of this Agreement, then the Charges will be increased (with effect from the date that the Change in Law occurs) as required to compensate the Distributor for the net increase in its Relevant Costs (as reasonably determined by the Distributor). Where the Relevant Cost relates to more than one customer of the Distributor the Distributor will allocate the cost between its customers in such manner as the Distributor, acting in good faith, considers reasonable.

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## SCHEDULE 2: BILLING AND SETTLEMENT PROCESSES

### 1 BILLING

#### 1.1 Calculation

Each month, the Distributor will calculate the Charges payable for the previous month and will send an invoice to the End-Consumer for:

- (a) the Charges for the previous month; and
- (b) any other amounts due and payable by the End-Consumer under this Agreement, including Minimum Annual Variable Charge.

#### 1.2 Estimation

The calculation will, where possible, be based on actual consumption information. If the Distributor does not have consumption information (i.e., information on the quantity of Gas delivered during the previous month) by the 7th Working Day of the current month or the information is incomplete or incorrect, the Distributor may estimate the End-Consumer's Gas consumption and the Charges for the previous month.

#### 1.3 Invoice

The invoice (covering the previous month) will be sent to the End-Consumer by the 9th Working Day of the current month and will be payable on the 20th day of the current month. If the Distributor fails to send an invoice to the End-Consumer by the 9th Working Day of the current month then the only consequence is that the due date for payment will be extended by one Working Day for each Working Day that the invoice is late.

The Distributor may send the End-Consumer more than one invoice for the Charges for the previous month and any other amounts due and payable by the End-Consumer under this Agreement.

#### 1.4 Adjustment

Where the Distributor has estimated the End-Consumer's Charges and complete and accurate consumption information subsequently becomes available, the Distributor will issue an adjustment note for the wash-up amount to the End-Consumer and will adjust the invoice to be issued in the next monthly billing cycle to take into account the wash-up.

#### 1.5 Adjustment and Recalculation

If an adjustment is to be made in respect of a Change in Law or on account of escalation of the Charges, and the amount cannot be accurately calculated in respect of an invoice period at the time the Distributor issues an invoice for that period, then the Distributor may calculate the adjustment based on provisional values as determined by the Distributor (acting reasonably). When the adjustment can be calculated accurately, the adjustment must be recalculated using the accurate values, and following such recalculation the amount of any adjusting payment must be invoiced or credited to End-Consumer (as applicable), as soon as reasonably practicable.

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## 2 CONTENTS OF INVOICES

### 2.1 Contents of Invoices

Invoices rendered under clause 1 of this Schedule shall include the following information:

- (a) the quantity of Gas (or an estimate thereof) for which charges are made on the invoice;
- (b) the Fixed Charge;
- (c) the Variable Charge Rate;
- (d) the charge for the Minimum Annual Quantity if applicable;
- (e) any other amounts charged on the invoice; and
- (f) GST and other amounts payable.

### 2.2 Tax Invoice

The Distributor must ensure that each invoice contains, for each taxable supply, a tax invoice (or an adjustment notice) prepared in accordance with the *A New Tax System (Goods and Services Tax) Act 1999*.

## 3 PAYMENT

The End-Consumer shall pay the amount stated as payable on any invoice by direct credit to a bank account nominated by the Distributor from time to time, or by such other method as is agreed in writing, no later than the due date for payment specified in the invoice. Subject to clause 7.2, no deduction from the amounts invoiced may be made, except that if the End-Consumer has received a credit note from the Distributor with the invoice, the End-Consumer may deduct the amount of the credit note from the amount payable under the invoice. For the purposes of this clause, **deduction** means any legal or equitable set off, and/or any legal or equitable counterclaim, and/or any cross-demand and/or any other legal or equitable claim and/or any disputed amount.

## 4 DISPUTED INVOICES

### 4.1 Disputed Invoices

In the event of any dispute concerning an invoice the End-Consumer shall, within 10 Working Days from the date it receives the invoice, notify the Distributor in writing identifying the amount in dispute and giving full reasons for the dispute. The End-Consumer shall pay the full amount of the invoice other than any disputed portion which the End-Consumer reasonably claims is a manifest error which disputed portion may be withheld until such time as the dispute is resolved (but only where that portion is disputed in good faith). Any such dispute shall be determined in accordance with clause 13 of this Agreement.

### 4.2 Time Limit

Neither the Distributor nor the End-Consumer may initiate a dispute in relation to any invoice after 15 months from the date of the invoice.

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### **4.3 Interest on Disputed Amount**

Where as a result of the determination of a dispute either party has to pay money to the other then interest shall be payable on the amount of the payment at a rate equal to the Interest Rate from the date the disputed invoice was due for payment until actual payment.

### **4.4 Incorrect Invoices**

If the End-Consumer has been overcharged or undercharged under this Agreement then within 30 days after the amount of the error has been agreed or determined under clause 13 of this Agreement the Distributor shall, if the End-Consumer has paid the invoices containing an overcharge, refund the amount of the overcharge or the End-Consumer shall pay to the Distributor the amount of any undercharge. Interest shall be payable on the amount of an overcharge or undercharge at the Interest Rate from the due date for payment of the incorrect invoice until the date of refund or payment of the overcharge or undercharge.

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## SCHEDULE 3: PRUDENTIAL REQUIREMENTS

The following are the Distributor's Prudential Requirements with which the End-Consumer must comply at all times, unless otherwise agreed.

### **1 ACCEPTABLE CREDIT RATING OR CREDIT SUPPORT**

#### **1.1 Credit Rating**

The End-Consumer will either maintain an Acceptable Credit Rating or provide Credit Support in a form and on terms acceptable to the Distributor.

#### **1.2 Credit Support**

If the Distributor is concerned, on reasonable grounds, that the End-Consumer is unable to maintain an Acceptable Credit Rating, the Distributor may request, in writing, that the End-Consumer provide Credit Support in accordance with this Schedule 3.

### **2 CREDIT SUPPORT**

#### **2.1 End-Consumer Requirements**

Credit Support means that the End-Consumer must provide:

- (a) an unconditional guarantee in favour of the Distributor with a third party guarantor who has and maintains an Acceptable Credit Rating, such guarantee to be for all amounts owing by the End-Consumer to the Distributor from time to time; or
- (b) a performance bond in favour of the Distributor and issued by a third party which has and maintains an Acceptable Credit Rating, such performance bond to be for an amount equal to the Distributor's reasonable estimate of one-sixth of the annual Charges (inclusive of GST) payable by the End-Consumer; or
- (c) such other security that the Distributor (acting reasonably) may require.

#### **2.2 Performance Bond**

Where the End-Consumer elects to provide a guarantee or performance bond pursuant to clause 2.1 of this Schedule 3, the guarantee or performance bond is to be in a form satisfactory to the Distributor (acting reasonably).

#### **2.3 Change in Value**

The Credit Support may be reviewed on a two-monthly basis by the Distributor and any change in value required for the End-Consumer to comply with clause 2.1 of this Schedule 3 will be notified to the End-Consumer who will provide additional Credit Support to the Distributor equal to the revised value required by the Distributor.

### **3 FAILURE TO PAY**

#### **3.1 General Conditions**

If the End-Consumer fails to pay to the Distributor any amount set out in any invoice issued by the Distributor pursuant to this Agreement on the due date for payment (otherwise than an

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amount validly withheld under clause 4.1 of Schedule 2) then, without limiting any other right of the Distributor under this Agreement, the Distributor may do any or all of the following:

- (a) make a claim under any Credit Support to the extent payment is due;
- (b) where the amount unpaid is equal to 1% or more of the invoice and remains unpaid after two Working Days after the End-Consumer is given notice by the Distributor of the unpaid amount, the Distributor may:
  - (i) require Credit Support from the End-Consumer, if Credit Support has not already been provided by the End-Consumer; or
  - (ii) require a change to the type of Credit Support provided by the End-Consumer; or
  - (iii) require an increase to the level of Credit Support held by the Distributor to such an amount as the Distributor considers reflects the credit risk posed to the Distributor by the End-Consumer.

## 4 REPLACEMENT CREDIT SUPPORT

### 4.1 Requirements

Where any claim is made under a Credit Support instrument the End-Consumer, upon notification from the Distributor, will procure replacement Credit Support so that the Credit Support requirements set out in this Schedule continue to be met.

### 4.2 Time Frame

Where the End-Consumer is required to provide new, replacement or additional Credit Support, it must do so within 20 Working Days of a written request from the Distributor.

## 5 FAILURE TO PROVIDE CREDIT SUPPORT

### 5.1

If, at any time, the Distributor issues the End-Consumer a written request in accordance with clause 4.2 of this Schedule 3 and the End-Consumer does not supply acceptable Credit Support within the specified time, the Distributor may, in addition to the monthly Charges, charge the End-Consumer a fee in consideration of the additional risk that the Distributor bears due to the absence of that credit support. This additional fee per month will be one-twelfth of the Interest Rate applicable on the last day of the month, plus 5%:

i.e.

$$C_t = C_i + ((I+5\%)/12) \times C_i$$

where:

$C_i$  = the normal monthly Charges

$I$  = the Interest Rate

$C_t$  = the Charges owed with the additional fee.

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## SCHEDULE 4: QUALITY OF SUPPLY

### 1 GAS SUPPLY – SUPPLY POLICY AND DELIVERY

#### 1.1 Gas Distribution Services

The Distributor will, in relation to each Point of Connection, in any hour (subject to the receipt of sufficient quantities of Gas into the Network at the relevant Injection Point to service all customers supplied from that Injection Point) permit the End-Consumer to off-take at the Point of Connection a quantity of Gas up to the Maximum Hourly Quantity for that Point of Connection.

#### 1.2 Maximum Hourly Quantity

- (a) If the Maximum Hourly Quantity applicable to a Point of Connection is exceeded without the prior written consent of the Distributor (or in breach of any conditions of such consent), the End-Consumer will indemnify the Distributor against any costs, damage, loss or expense suffered or incurred by the Distributor as a result (whether directly or indirectly) of the Maximum Hourly Quantity having been exceeded.
- (b) If the Maximum Hourly Quantity applicable to a Point of Connection is exceeded or the Distributor reasonably believes that the Maximum Hourly Quantity applicable to a Point of Connection is likely to be exceeded:
  - (i) the Distributor may, at its sole discretion, require the End-Consumer to install a flow limiting device. The installation costs of the flow limiting device are payable by the End-Consumer; and
  - (ii) if the Distributor wishes and advises the End-Consumer accordingly, the Distributor and the End-Consumer will meet to discuss in good faith the End-Consumer's likely maximum expected peak network usage and the likely change to the Charges to reflect the expenditure the Distributor estimates it will incur to increase the capacity of the Network to meet the maximum expected peak network usage.
- (c) The Distributor may, in its absolute discretion, authorise the End-Consumer to temporarily exceed the Maximum Hourly Quantity at a Point of Connection.

#### 1.3 Nominated Annual Quantity

Where requested by the Distributor, the End-Consumer will, within 2 months of the request, provide to the Distributor the Nominated Annual Quantity for the following calendar year for each Point of Connection where the Nominated Annual Quantity exceeds 10 terajoules. Such a request will not be made more than once in any calendar year.

#### 1.4 Anticipated Change in Quantities

If, at any time during a year, the End-Consumer becomes aware of circumstances as a result of which the Nominated Annual Quantity provided pursuant to clause 1.3 will, or will be likely to change, the End-Consumer will, as soon as reasonably practicable, notify the Distributor accordingly.

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## 1.5 Supply Pressure

- (a) The Distributor will use its commercially reasonable endeavours to ensure that Gas delivered to a Point of Connection is delivered within the pressure range specified by the Distributor as being applicable to that Point of Connection or such other pressure range as may be requested by the End-Consumer and agreed to in writing by the Distributor and as set out in the GDSA (as amended or replaced from time to time).
- (b) Where the End-Consumer becomes aware that the delivery pressure has fallen outside the standard pressure range for the Network then the End-Consumer will notify the Distributor of the occurrence as soon as reasonably practicable. If the Distributor anticipates or is otherwise aware that Gas is or will be delivered to a Point of Connection outside the pressure range for the Network, the Distributor will advise the End-Consumer as soon as is reasonably practicable of the steps required, and the timeframe proposed, to correct it. In parts of the Network the delivery pressure may, during periods of high demand, fall below the standard pressure range. The Distributor aims to ensure delivery pressures remain within the standard pressure ranges as specified below by implementing Network maintenance, rehabilitation or reinforcement programmes.
- (c) The standard pressure range codes and ranges used by the Distributor are available from the Distributor on request. The Distributor may update the pressure ranges from time to time in accordance with the Distributor's asset management plan or operating procedures. In all cases the Distributor will endeavour to provide the End-Consumer with adequate notice of any planned changes to the pressure ranges.

## 1.6 Network Rehabilitation

If the Distributor seeks to undertake a Network rehabilitation programme, it will seek to negotiate in good faith with the End-Consumer reasonable terms for the replacement or upgrade of any of the End-Consumer's Equipment which may be necessary as a consequence of the Network rehabilitation programme. If agreement is not reached, the Distributor may, at its discretion, choose to procure and install, at its own cost, suitable equipment to ensure delivery pressure is maintained in accordance with this Agreement.

## 1.7 Off-Specification Gas

- (a) The Distributor has no obligation to accept Off-Specification Gas into the Network and may curtail the receipt of Gas into the Network or its conveyance through the Network as required to ensure Off-Specification Gas does not enter the Network or, if it has so entered, as required to mitigate the effects of that Off-Specification Gas.
- (b) If the Distributor agrees to accept Off-Specification Gas, the Distributor may revoke any such acceptance at any time for any reason and refuse receipt of such Off-Specification Gas from that time.

## 1.8 Alteration of Specification

- (a) The Distributor may materially alter the specification of the Gas received into the Network (as a result of co-mingling with other Gas received into the Network) within the limits of the Gas Specification.

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- (b) In the event that the Distributor agrees to accept Off-Specification Gas for delivery to the End-Consumer
- (c) the Distributor may, at its discretion, deliver to the Points of Connection Gas having the same or higher specification than the specifications of the Off-Specification Gas accepted by the Distributor at the Injection Point. If the Distributor reasonably believes that Off-Specification Gas is or is likely to be delivered into the Network the Distributor may, unless it has agreed to accept such Off-Specification Gas, close the relevant Injection Points and keep them closed until it is satisfied that Gas complying with the Gas Specification will be delivered to that Injection Point. Prior to closing the relevant Injection Point, the Distributor will use all commercially reasonable endeavours to try to stop the flow of any Off-Specification Gas into the Injection Point.

## 1.9 Odourisation and Gas Specification

The End-Consumer warrants that it has contracted for the supply of Gas that will, upon delivery to the Injection Point, comply with the Gas Specification and be odourised to the Gas Odourisation Standard, as that standard is updated from time to time. Subject to adequately odourised Gas being delivered into the Network by all persons delivering Gas into the Network, the Distributor will comply with its obligations under the Gas Odourisation Standard in respect of the odourisation of Gas delivered to a Point of Connection.

## 2 OBLIGATIONS TO NOTIFY

### 2.1 Interference with Equipment

If the End-Consumer suspects that there is, or has been, interference with the Distributor's Equipment at the End-Consumer's Premises, the End-Consumer will notify the Distributor as soon as practicable after becoming aware of the same.

### 2.2 Network Faults

The End-Consumer will notify the Distributor, as soon as practicable, after becoming aware of any faults affecting the Network, signs of damage, Gas escape or other abnormalities to the Network. The End-Consumer will also notify the Distributor, as soon as practicable, if it becomes aware of the occurrence of any event or circumstance that could adversely affect the Network and any information the End-Consumer may have about those matters.

### 2.3 Distributor to Investigate

If the Distributor suspects that there is, or has been, interference with the End-Consumer's Equipment at the End-Consumer's Premises, the Distributor will immediately investigate and report its findings to the End-Consumer as soon as practicable after becoming aware of them.

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## SCHEDULE 5: METERING EQUIPMENT AND INFORMATION

### 1 INTRODUCTION

This Schedule aims to ensure that both the End-Consumer and the Distributor use Metering Equipment and measurement processes that are compatible with each other, reconcilable and meet the standards set by the Gas industry.

### 2 GAS MEASUREMENT

#### 2.1 Metering Equipment

Subject to the End-Consumer granting the Distributor the rights as set out in clause 5 (Access) and the End-Consumer granting (or owner of the End-Consumer Premises granting) to the Distributor an easement or licence to occupy, the Distributor must ensure that Metering Equipment is installed and maintained at or near all Points of Connection. All such Metering Equipment and the conversion of measured volume to standard value of energy must meet the Gas Measurement Standard.

#### 2.2 Time of Use Device

- (a) A **Time of Use Device** is the settings, equipment, wiring and installation for the purpose of enabling Metering Equipment to provide information as to the daily flow of Gas, which complies with the standards of such devices set out in the Gas Measurement Standard as updated from time to time.
- (b) In respect of all Points of Connection where the Nominated Annual Quantity is greater than 10 terajoules, the Distributor will ensure that a Time of Use Device is fitted to the Metering Equipment.
- (c) The Distributor will ensure that the Time of Use Devices and their installations comply with the Gas Measurement Standard and in all respects are fit for their intended purpose.

#### 2.3 Check Metering and Telemetry Equipment

The End-Consumer or its Gas Retailer may, at its own cost, install check Metering Equipment and/or a pressure monitoring point on or near any Point of Connection and may connect the check Metering Equipment and/or a pressure monitoring point to any on-line monitoring system operated by the Distributor. Where a Time of Use Device is installed, the End-Consumer or its Gas Retailer may, at its own cost, install and connect to the Distributor's Metering Equipment, equipment to effect the telemetric transfer of data relating to Gas volumes, pressure and temperature. This equipment must be designed, installed and operated so that it does not interfere with the Distributor's Metering Equipment and must comply with the standards reasonably required and notified by the Distributor.

#### 2.4 Capacity Variance

If the End-Consumer's hourly consumption for a Point of Connection is consistently and regularly below the level required for the current Metering Equipment at that Point of Connection to read accurately then the Distributor may install replacement Metering Equipment at the Point of Connection suitable for the actual volume of Gas being taken by the

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End-Consumer. The End-Consumer must reimburse the Distributor the costs incurred by the Distributor in replacing the Metering Equipment.

### **2.5 Flow Limiting Devices**

The Distributor may require the End-Consumer to install flow limiting devices in accordance with the Distributor's directions in relation to any Point of Connection that has Metering Equipment with a maximum capacity below the maximum capacity of the End Consumer's Equipment. The installation costs of the flow limiting device are payable by the End-Consumer.

### **2.6 Meter Readings**

The Distributor is responsible for taking meter readings from all Points of Connection and providing such data to the End-Consumer and its Gas Retailer and the Allocation Agent in accordance with the Reconciliation Code and applicable Allocation Agreement.

### **2.7 Accuracy of Gas Metering Equipment**

- (a) The quantity of Gas will be determined by converting the quantity recorded by the Metering Equipment to a standard value of energy in accordance with the Gas Measurement Standard.
- (b) If the End-Consumer or the Distributor wishes to dispute the accuracy of the Metering Equipment, written notice must be given to the other party.
- (c) In the event notice under paragraph (b) above is given, the following procedure is to be followed:
  - (i) The End-Consumer and the Distributor will, as soon as practicable, provide each other with any information they may have that is relevant to the checking of the Metering Equipment.
  - (ii) The Distributor will arrange for the Metering Equipment to be tested in accordance with the Reconciliation Code.
  - (iii) The Metering Equipment is deemed to be accurate if it does not exceed the margins of error specified in the Gas Measurement Standard.
  - (iv) The party disputing the accuracy of the Metering Equipment is to pay the reasonable costs of testing, unless the Metering Equipment is found to be inaccurate, in which case the Distributor is to bear the costs.
  - (v) If it is established that any Metering Equipment is not measuring accurately, the quantity of Gas delivered during the period when the Metering Equipment was not measuring accurately (determined through reference to a check meter or other available information) will be corrected in accordance with the Reconciliation Code. If no reliable data is available to confirm the period when the Metering Equipment was not measuring accurately, or the amount by which it was inaccurate, the correction will not be applied for more than 60 days prior to the date when the inaccuracy was first notified or detected.

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- (vi) Where any Metering Equipment has failed to measure the quantity of Gas, the method of calculating the quantity of Gas delivered will be in accordance with the Reconciliation Code.

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## SCHEDULE 6: OUTAGE MANAGEMENT

### 1 INTRODUCTION

In this Schedule, the Distributor sets out its policy and processes for the management and communication of Network faults and outages.

### 2 COMMUNICATON OF PLANNED OUTAGES

- (a) The End-Consumer will be notified of planned outages at least 10 Working Days in advance. The Distributor agrees to use industry standard file formats to communicate planned outage information to the End-Consumer. This will be sent as an email attachment to the End-Consumer or by mail.
- (b) The Distributor will consider alternative outage times when the End-Consumer notifies the Distributor that it may be adversely affected by a planned outage. However, the final decision over outage times rests with the Distributor.
- (c) The Distributor will communicate with, and provide updates to, the End-Consumer about the progress of planned outages. If a planned outage previously notified to the End-Consumer is cancelled for any reason, the Distributor will notify the End-Consumer as soon as practicable. If the planned outage needs to be rescheduled, the Distributor will recommence the planned outage notification process as set out in this clause 2.

### 3 MANAGEMENT OF UNPLANNED OUTAGES AND EMERGENCIES

#### 3.1 Emergency Management

Subject to any applicable laws, the Distributor will be solely responsible for the management of Network emergencies. For the purposes of this clause, an emergency is an unplanned interruption to supply or an unplanned event which presents, or has the potential to present, a hazard to life and/or property and/or the environment. Emergency management will include the actions necessary to:

- (a) assess and make safe any situation;
- (b) control the flow of Gas into and out of the Network;
- (c) make temporary or permanent repairs to any part of the Network;
- (d) restore the Network back to its previous operational condition;
- (e) co-ordinate with Gas Retailers to restore supply of Gas to end-consumers' Equipment; and
- (f) keep the End-Consumer and Gas Retailers and the public informed of developments.

#### 3.2 Emergency Management Plan

The Distributor will maintain an emergency management plan outlining the resources available and actions likely to be taken when handling any foreseeable emergency involving the Network. The plan will include load shedding principles and schedules, emergency liaison,

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and take into account the plan developed by the Transmission System Operator (**Gas Contingency Plan**).

### **3.3 Civil Defence Contacts**

Both the Distributor and the End-Consumer will nominate and notify each other of the name of the person who will act as the "civil defence liaison officer" in the event of a civil defence emergency.

### **3.4 End-Consumer's Role**

The End-Consumer must take no action during the course of a Network emergency to compromise the Distributor's ability to manage the emergency.

### **3.5 Service Restoration**

Once the Network has been returned to normal operating condition, the Distributor will advise the End-Consumer and Gas Retailers, and the parties will liaise to restore supply to the End-Consumers' Equipment including the re-lighting of pilots. Where the emergency has resulted from an incident on the Network (not caused by the End-Consumer), the Distributor will meet the costs of restoring supply to the End-Consumers' Equipment including the re-lighting of pilots. Where the emergency has resulted from an incident upstream of the Network or was caused by the End-Consumer, the End-Consumer must reimburse the Distributor the costs of restoring supply to the End-Consumers' Equipment including the re-lighting of the pilots.

### **3.6 Load Shedding**

In the event of a major partial loss of Gas supply it may become necessary to implement load shedding on the Network. In order to manage that event, the Distributor will develop and maintain a load shedding plan.

### **3.7 Load Shedding Plan**

Where requested, the Distributor will provide to the End-Consumer the load shedding plan.

### **3.8 Network Stabilisation**

The initial objective in any load shedding is to stabilise the Transmission System or Network. Once stabilisation is achieved the Distributor will use commercially reasonable endeavours to ensure that the available Gas supplies are allocated in accordance with the prevailing contractual arrangements for the supply of Gas which have been notified to the Distributor by Gas Retailers. In allocating available Gas supplies, once stabilisation is achieved, the Distributor will be entitled to rely on any such notice given by the affected Gas Retailers. In the absence of any such notice, the Distributor will be entitled to allocate available Gas supplies as it sees fit.

### **3.9 Shortage of Supply caused by End-Consumer's Gas Retailer**

Where there is a shortage of Gas supply into the Network due to the End-Consumer's Gas Retailer, then the End-Consumer may be curtailed in priority to customers whose Gas Retailers have supplied into the Network quantities of Gas sufficient to meet the demand of their customers.

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## SCHEDULE 7: PRE-REQUISITES AND CORE REQUIREMENTS FOR THE END-CONSUMER

Before the Distributor is obliged to provide Gas Distribution Services, the End-Consumer must satisfy the following conditions. The End-Consumer must also continue to satisfy them throughout the term of this Agreement.

The End-Consumer must:

- (a) satisfy the Prudential Requirements in Schedule 3;
- (b) ensure that the End-Consumer's Equipment complies with the Network Connection Requirements and satisfy the Distributor that the End-Consumer's Equipment is not connected to another Gas distribution system;
- (c) ensure that there is suitable space for the safe and secure housing of the Distributor's Equipment (including, without limitation, the Distributor's Metering Equipment) at the End-Consumer's Premises; and
- (d) be a party to a contract for the supply of Gas with a Gas Retailer who is able to meet the End-Consumer's Gas requirements and who is a party to:
  - (i) an agreement for use of the Network with the Distributor;
  - (ii) a contract with the Transmission System Operator; and
  - (iii) the Reconciliation Code (unless the Reconciliation Code is made and in force as a Gas Code or a Gas Regulation).

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## SCHEDULE 8: DEFINITIONS AND INTERPRETATION

### 1 DEFINITIONS

In this Agreement, unless the context requires otherwise:

**Acceptable Credit Rating** means a credit rating of:

- (a) at least BBB (Standard & Poor's Rating Group) or equivalent; or
- (b) such other credit rating as is acceptable to the Distributor;

**Agreement** means this Agreement, including the Schedules, comprising these Standard Terms and Conditions and the GDSA as amended from time to time in accordance with the provisions of this Agreement;

**Allocation** means the process of attributing quantities of Gas to persons with an interest in any Gas at a shared Injection Point;

**Allocation Agreement** means an agreement between the users of a shared Injection Point and their appointed Allocation Agent which:

- (a) sets out the method of allocation and terms of appointment; and
- (b) requires the parties to be bound by the Reconciliation Code;

**Allocation Agent** means the person responsible for Allocation in respect of a particular Injection Point;

**Annual Liability Amount** means \$200,000 unless otherwise agreed in writing between the Distributor and the End-Consumer;

**Change in Law** is defined in clause 4 of Schedule 1;

**Charges** means the charges for Gas Distribution Services and other services provided by the Distributor under this Agreement, calculated in accordance with Schedule 1 and as amended from time to time in accordance with this Agreement;

**Commencement Date** is as defined in the GDSA;

**CPI** is defined in clause 3 of Schedule 1;

**Credit Support** means credit support provided by the End-Consumer in accordance with the credit support requirements of Schedule 3;

**Default Interest** means interest on the amount payable at the rate per annum equal to 5% above the Interest Rate from the due date for payment until the date of payment of that amount to the relevant party (both before and after judgment) accruing on a daily basis and capitalised every 30 days;

**Disconnection Event** means any of the following:

- (a) an occurrence or circumstance that may endanger persons or property;
- (b) an occurrence or circumstance that may adversely affect the proper working of any energy network or Transmission System;

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## GDSA Standard Terms and Conditions

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- (c) an Event of Default occurring in relation to the End-Consumer;
- (d) termination of this Agreement;
- (e) subject to compliance with any applicable laws, a request of the End-Consumer's Gas Retailer for disconnection of the End-Consumer;

**Distributor** means Tas Gas Networks Pty Ltd ABN 91 104 499 569 and its successors and assignees;

**Distributor's Equipment** means any Fittings and Metering Equipment belonging to or used by the Distributor or the Distributor's agent which is from time to time installed in, over or on the End-Consumer's Premises;

**End-Consumer** means the party named as the "End-Consumer" in the GDSA;

**End-Consumer's Agent** means the person notified in writing to the Distributor as being the End-Consumer's agent solely for the purposes of this Agreement, which person must be a Gas Retailer;

**End-Consumer's Equipment** means the Fittings and Metering Equipment belonging to or used by the End-Consumer or the End-Consumer's Agent which are from time to time installed in, over or upon the End-Consumer's Premises;

**End-Consumer's Premises** means in relation to the Site:

- (a) the land and buildings owned or occupied by the End-Consumer;
- (b) any land over which the End-Consumer has an easement or right to pass Fittings; and
- (c) any Fittings owned by the End-Consumer to convey Gas from the Point of Connection to the locations at which Gas is consumed;

**Event of Default** means any of the following:

- (a) where (subject to clause 4.1 of Schedule 2) a party fails to pay the other party any amount due under this Agreement and the default is unremedied within 10 Working Days after notice has been given of such non-payment by the non-defaulting party;
- (b) where there is a material failure to perform a party's obligations under this Agreement and the failure is not in the process of being remedied to the reasonable satisfaction of the other party within 30 Working Days after notice from the other party of the failure and requiring it to be remedied;
- (c) where a party fails on three or more occasions in any period of 12 months to meet an obligation under this Agreement within the time specified then, whether each individual failure is in itself material or not, where all such failures taken cumulatively materially adversely affect the other party's rights or the other party's ability to carry out its obligations under this Agreement or any agreement with any other person; or
- (d) where a party:

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- (i) has a receiver, administrator or statutory manager appointed to or in respect of the whole or any substantial part of its undertaking, property or assets;
- (ii) is deemed or presumed to be unable to pay its debts as they fall due, becomes or is deemed to be insolvent, or is in fact unable to pay its debts as they fall due, or proposes or makes a compromise, or an arrangement or composition, with or for the benefit of its creditors or fails to comply with a statutory demand under section 459 of the Corporations Act 2001 (Cth); or
- (iii) is removed from the register of companies (otherwise than as a consequence of an amalgamation) or an effective resolution is passed for its liquidation;

**Expiry Date** is as defined in the GDSA;

**Fittings** means all equipment used in connection with the conveyance or measurement of Gas;

**Force Majeure Event** means an event or circumstance beyond the reasonable control of either party, which results in or causes the failure of that party to perform any of its obligations under this Agreement. Such events may include, but are not limited to:

- (a) acts of God;
- (b) strikes, lockouts, or other industrial disturbances;
- (c) acts of a public enemy, declared or undeclared war, threats of war, terrorist acts, blockades, revolution, riots, insurrection, civil commotion, public demonstrations, sabotage, acts of vandalism, epidemics or disease;
- (d) acts of animals, lightning, fire, storms, floods, earthquakes, landslides, washouts, landslips, accumulation of snow or ice, lack of water arising from weather or environmental restrictions, geomagnetically induced currents;
- (e) lack of adequate fuel resources, accidental collisions, explosions, acts of aircraft, motor vehicles or trains, faults or failures of any plant, apparatus or equipment;
- (f) the coming into force or expiry of any statute or exercise of a statutory power of decision; and
- (g) the partial or entire failure of supply or availability of Gas to the Network, or partial or entire failure of the Network,

provided that lack of funds will not be considered a Force Majeure Event;

**Gas** means hydrocarbons or a mixture of hydrocarbons and other gases comprising predominantly of methane, which at standard temperature and standard pressure conditions is in a gaseous state;

**Gas Acts** means the *Gas Industry Act 2019* and the *Gas Safety Act 2019*

**Gas Codes** means the Gas codes issued under the Gas Acts, as amended or replaced from time to time;

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**Gas Distribution Services** means the services defined as “Gas Distribution Services” in the GDSA;

**Gas Measurement Standard** means NZS 5259: 2004 published by the Standards Association of New Zealand as amended or replaced from time to time (or any relevant standard introduced in Australia which is required to be met by metering equipment measuring Gas flow);

**Gas Odourisation Standard** means the Gas odourisation requirements specified in the Gas Quality Standard and Monitoring Guidelines (Declared Transmission System) published by the Australian Energy Market Operator, as amended or replaced from time to time.

**Gas Regulations** means the regulations made and in force under the Gas Acts;

**Gas Retailer** means a Gas retailer who is a party to an agreement with the Distributor in relation to the use of the Network and who holds an appropriate licence to sell Gas;

**Gas Specification** means the Australian Standard for General Purpose Natural Gas AS4564: 2011, as amended or replaced from time to time;

**Gas Standards** means the Gas standards specified in the Distributor’s licence granted and in force under the Gas Acts as amended or replaced from time to time;

**Gas Supply Agreement** means an agreement between an End-Consumer and a Gas Retailer for the supply of Gas;

**GDSA or Gas Distribution Services Agreement** means the document so titled signed by the Distributor and the End-Consumer that incorporates these Standard Terms and Conditions;

**Good Industry Practice** means the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in Australia in the same type of undertaking under the same or similar circumstances having regard to common industry practice in Australia at the time;

**Government Body** means any government department, or any statutory, public, municipal, local or other authority charged with the responsibility for administering any relevant legislation, regulation or rule, ordinance, code, by-law or other instrument made pursuant to legislation;

**GST** means goods and services tax payable pursuant to the *A New Tax System (Goods and Services Tax) Act 1999*;

**Injection Point** means the outlet flange of a gate station supplying Gas from a Transmission System approved by the Distributor to the Network;

**Interest Rate** means, in respect of any given day, the overnight cash rate applicable in respect of that day as published in the Australian Financial Review (or if the day is not a Working Day then as published on the most recent Working Day), and if at any time the rate ceases to be published then such other rate per annum as reasonably nominated by the Distributor;

**Interruption Event** means any of the following:

- (a) the Distributor wishes to inspect or effect alterations, maintenance, repairs or additions to any part of the Network;
- (b) an occurrence or circumstance that may endanger persons or property;

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- (c) an occurrence or circumstance that may adversely affect the proper working of any energy network or Transmission System;
- (d) where the Distributor reasonably anticipates that the supply of Gas or any transmission capacity across the Network is or will be reduced, impaired or interrupted;
- (e) where insufficient Gas is delivered or will be available for delivery to allow the Network to safely operate;
- (f) where Off-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas enters the Network unless the Distributor has agreed to accept that Off-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas;
- (g) where the Maximum Hourly Quantity applicable to a Point of Connection is exceeded;
- (h) instructions from any Transmission System Operator or as a result of an action by the Transmission System Operator under any agreement between the Distributor and that Transmission System Operator; and
- (i) any other circumstance which, in the Distributor's reasonable opinion and in accordance with Good Industry Practice, requires the interruption or reduction in the conveyance of Gas;

**Losses** means Gas unaccounted for on the Network, as determined by the Distributor from time to time;

**Manifest Error** means an error in the amount of an invoice arising from:

- (a) an obvious arithmetic error in calculating the Charges;
- (b) the invoicing of Charges where there is no doubt that those Charges have already been paid by the End-Consumer;
- (c) the End-Consumer being charged in respect of a Point of Connection where the Distributor's records indicate the End-Consumer has not received Gas at that Point of Connection during the period to which the invoice relates; or
- (d) charges being allocated to a Point of Connection where there is doubt that the correct Charges have been applied to that Point of Connection;

**Maximum Hourly Quantity** means in respect of any nominated Gas Point of Connection, the maximum hourly quantity (measured in standard cubic meters per hour (scmh)) set out in the GDSA;

**Metering Equipment** means equipment for the purpose of measuring the quantity of Gas conveyed from the Network through the Point of Connection;

**Minimum Annual Quantity** means the quantity described as such in the GDSA;

**Minimum Annual Variable Charge** is the amount (if any) calculated in accordance with clause 2.4 of Schedule 1;

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## GDSA Standard Terms and Conditions

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**Network** means a “Distribution System” (as defined in the Gas Acts) owned or controlled by the Distributor and which serves the area where the Site is located;

**Network Connection Requirements** means the Distributor’s written standards for connection to the Network as issued (and as may be amended from time to time) by the Distributor in accordance with Good Industry Practice;

**Nominated Annual Quantity** means, in relation to a Point of Connection, the quantity of Gas which the End-Consumer, in good faith, expects to off-take from the Network at that Point of Connection in any consecutive period of 12 months;

**Off-Specification Gas** means Gas which does not meet the Gas Specification;

**Point of Connection** means the point where Gas leaves the Network at the Site and enters the End-Consumer’s Fittings, as specified in the GDSA;

**Reconciliation Code** means:

- (a) the Gas Codes; and
- (b) the Gas Regulations; and
- (c) the code established by the Distributor and Transmission System Operator,

to assist the development of a competitive Gas market by providing a uniform process for End-Consumer transfers between competing retailers, and the allocation and reconciliation of Gas quantities between users at Injection Points into a Transmission System or distribution network, as amended from time to time;

**Related Body Corporate** has the meaning given to that term in the *Corporations Act 2001* (Cth);

**Representatives** means, in respect of a party, its directors, officers, employees, authorised agents, contractors and professional advisors;

**Schedule** means each of Schedules 1 to 8 of this Agreement;

**Single Event Liability Amount** means \$10,000 unless otherwise agreed in writing between the Distributor and the End-Consumer;

**Site** means the End-Consumer’s site(s) in respect of which the Gas Distribution Services are provided, as specified in the GDSA;

**Standard Terms** means these Standard Terms and Conditions of Gas Distribution Services as amended from time to time;

**Term** means the period between the Commencement Date and the Expiry Date;

**Transmission System** means:

- (a) the natural Gas transmission system owned by Tasmanian Gas Pipeline Pty Limited ABN 36 083 052 019 (**TGP**) or its successors or assigns; or
- (b) any other system for the transmission of Gas;

**Transmission System Operator** means the owner or operator of any Transmission System;

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**Unaccounted For Gas** or **UFG** has the meaning set out in the definition of Losses;

**Working Day** means a day other than a Saturday, Sunday or public holiday in Tasmania;

**Year** means each 12 month period from the Commencement Date.

## 2 INTERPRETATION

In this Agreement, unless the context requires otherwise:

### 2.1 Defined Expression

Expressions defined in a clause of this Agreement have that defined meaning in the whole of this Agreement including the background.

### 2.2 Headings

Section, clause and other headings are for ease of reference only and will not affect this Agreement's interpretation.

### 2.3 Negative Obligations

Any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done.

### 2.4 Parties

References to parties are references to parties to this Agreement.

### 2.5 Persons

References to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality.

### 2.6 Plural and Singular

Words importing the singular number include the plural and vice versa.

### 2.7 Schedules

The schedules to this Agreement and the provisions and conditions contained in these schedules have the same effect as if set out in the body of this Agreement.

### 2.8 Sections, Clauses and Schedules

References to sections, clauses and schedules are references to this Agreement's sections, clauses and schedules.

### 2.9 Money

A reference to \$ or dollars is a reference to the lawful currency of the Commonwealth of Australia.



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### 2.10 Time

A reference to any given time is a reference to Tasmanian Standard Time.

### 2.11 Statutes and Regulations

References to any statutory provision include any statutory provision which amends or replaces it, and any subordinate legislation made under it.