

# 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).

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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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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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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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## 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<sub>n</sub> = is the relevant charge (that is the Fixed Monthly Charge or the Variable Charge Rate) applying on and from the relevant Adjustment Date;

C<sub>n-1</sub> = is the relevant charge applying immediately prior to the relevant Adjustment Date;

CPI<sub>n</sub> = the CPI figure for the quarter ended 31 December in the year ending immediately prior to the Adjustment Date;

CPI<sub>n-1</sub> = the CPI figure for the quarter ending 12 months prior to the quarter referred to in the definition of CPI<sub>n</sub>.

Where the application of the above formula on an Adjustment Date would result in C<sub>n</sub> being less than C<sub>n-1</sub> then C<sub>n</sub> for that Adjustment Date will be taken to equal C<sub>n-1</sub>.

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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- (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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**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.