

**Non-Standard Form Contract**

# **Terms and Conditions**

Effective 1 January 2023



***Kleenheat***

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## Parties

**We** and **Us** means Wesfarmers Kleenheat Gas Pty Ltd (ABN 40 008 679 543) a company registered in Perth and having its registered office at Level 14, Brookfield Place Tower 2, 123 St Georges Terrace, PERTH WA 6000 and **Our** has a corresponding meaning.

**You** means the person/s taking a supply of gas from **Us** at the Supply Address and **Your** has a corresponding meaning.

## Plan Details

This document must be read and interpreted with the Plan Details. To the extent there is any inconsistency between the terms and conditions of the Plan Details and the terms and conditions in this document (whether express or implied), the terms and conditions of the Plan Details will prevail and modify the terms and conditions in this document.

## Interpretation and use of Capital Letters

Some words or expressions have been capitalised to indicate that those words or expressions are defined in clause 1 or elsewhere. In interpreting this Contract the fact that a word has or has not been capitalised is to be disregarded. Unless otherwise indicated, in this document:

- (a) all defined terms include both the singular and plural, and vice versa;
- (b) headings are for convenience only and do not affect the interpretation of the document;
- (c) a reference to a legislative instrument is a reference to that instrument as amended from time to time; and
- (d) any use of the terms 'includes' or 'including' is inclusive and does not purport to limit the operation of the relevant provision.

## 1. Definitions

**Acceptance Date** means that date on which We accept Your offer to acquire gas from Us under this Contract.

**Annual Contract Quantity** or **ACQ** means the amount of gas in gigajoules specified in the Plan Details for a customer paying the non-residential Price.

**Australian Consumer Law** has the same meaning as in the *Competition and Consumer Act 2010* (Cth).

**Bank Bill Swap Rate** has the meaning given to that term in the *Energy Coordination (Customer Contracts) Regulations 2004* (WA).

**Basic Living Needs** includes:

- (a) rent or mortgage;
- (b) other utilities (e.g. electricity, phone and water);
- (c) food and groceries;
- (d) transport (including petrol and car expenses);
- (e) childcare and school fees;
- (f) clothing; and
- (g) medical and dental expenses.

**Benefit Change** has the meaning given to that term in the *Energy Coordination (Customer Contracts) Regulations 2004* (WA).

**Bill** means a tax invoice issued by Us that complies with the requirements of the Customer Service Code.

**Billing Period** means the period referred to in clause 7.1.

**Business Day** means a day which is not Saturday, Sunday or a public holiday in Western Australia.

**Contract** means the legally binding Contract between You and Us consisting of these terms and conditions and the Plan Details.

**Contract Term** means the term of the Contract set out in the Plan Details and starting at 8.00am on the Acceptance Date.

**Contract Year** means each 12 month period (or part thereof in the case of the final period) beginning on the Acceptance Date and ending at the end of the Contract Term.

**Cooling-off Period** means a period of 10 Business Days from and including the Business Day after You agreed to this Contract or (if the Contract was negotiated by telephone) received this Contract.

**CPI** means the Consumer Price Index for Perth (all groups) published by the Australian Bureau of Statistics or, if the index ceases to be published, such alternative index as the parties may agree in good faith to be an equivalent index or failing agreement, either party may request the Institute of Actuaries of Australia to provide an alternative index which is equivalent to the CPI and that alternative index shall be deemed to be the CPI for the purposes of this Contract.



**Customer Service Code** means the Compendium of Gas Customer Licence Obligations unless an alternative Customer Service Code is approved by the Economic Regulation Authority, in accordance with Our Trading Licence.

**Date of Receipt** means in relation to the receipt by You a notice (including a Disconnection Warning) given by Us:

- (a) in the case where We hand the notice to You, the date We do so;
- (b) in the case where We leave the notice at the Supply Address, the date We do so;
- (c) in the case where We give the notice by post, a date 2 Business Days after the date We posted the notice; and
- (d) in the case where We give the notice by electronic message (e.g. email or SMS), the date on which Our computer or other device from which the electronic message was sent records that the electronic message was successfully transmitted.

**Delivery Point** means the point on the Network at which gas is withdrawn for delivery to You as determined by the Network Operator.

**Disconnection Warning** means a written notice in accordance with the Customer Service Code advising You that disconnection will occur unless payment is made by the date specified in the notice.

**Distribution Standards** means the relevant Commonwealth, State or local government legislation including acts of parliament, regulations, by-laws or other subordinate legislation, judicial, administrative or regulatory decrees, or any mandatory approvals and guidelines, including industry standards and/or administrative interpretations of them to regulate:

- (a) the supply of gas to or from the Network; and
- (b) the way in which Your gas equipment at the Supply Address that is not part of the Network affects the Network to which it is connected.

**Early Termination Fee** means the Fee determined in accordance with clause 25.2(b).

**Economic Regulation Authority** means the body established by the *Economic Regulation Authority Act 2003 (WA)*.

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

**Energy Ombudsman** has the meaning given by section 11ZPZ(1) of the *Energy Coordination Act 1994 (WA)*.

**Fee** means a charge other than the Price.

**Financial Hardship** means, if You are eligible to pay the residential Price, a state of more than immediate financial disadvantage which results in You being unable to pay an outstanding amount as required by Us without affecting Your ability to meet the Basic Living Needs of You or a dependant of Yours.

**Fixed Term** means a Contract Term that is expressed to have effect for a definite period.

**Fixed Term Contract** means a Contract that is for a Fixed Term.

**Gas Marketing Code of Conduct** means the Gas Marketing Code of Conduct 2022 as amended or replaced from time to time.

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

**Interest Rate** means a rate of 3% above the quoted rate for the one month Bank Bill Swap Rate.

**Matter Beyond Our Control** or **Matter Beyond Your Control** means an event or circumstance affecting Us (in the case of a Matter Beyond Our Control) or You (in the case of a Matter Beyond Your Control), and in each case that is beyond the direct control or influence of that affected person including acts of God, government orders, court orders, emergencies, operational necessity, required maintenance, breakdowns at power stations or elsewhere, insufficient volumes of gas or any other problem with the Network, but excludes Our or Your inability to pay any money due under this Contract for any reason.

**Medical Practitioner** means an individual registered under the *Health Practitioner Regulation National Law (WA) Act 2010 (WA)* in the medical profession.

**Meter** means the equipment at the Supply Address used to measure the volume of gas consumed.

**Meter Equipment** means Meters, pressure regulators and safety valves, filters, regulators, flow correcting devices and telemetry devices necessary to measure quantities of gas supplied to You.

**Minimum Annual Bill** means, in respect of a Contract Year, the amount referred to in clause 7.8.

**Minimum Annual Bill Percentage** means the percentage of the Annual Contract Quantity which You agree to use or otherwise pay for in accordance with clause 7.8.

**Network** means a distribution system (as defined in the *Energy Coordination Act 1994 (WA)*).

**Network Equipment** means the Meter and any pipes, pressure regulators or other equipment used to transport, measure, or control gas for delivery to You, before the point where gas leaves the Meter.

**Network Operator** means the person who owns, operates or controls the distribution system to which the Supply Address is or is to be connected.

**Payment Difficulties** means, if You are eligible to pay the residential Price, a state of immediate financial disadvantage that results in You being unable to pay an outstanding amount as required by Us by reason of a change in personal circumstances, including:

- (a) sudden and unexpected disability, illness of or injury to You or a dependant of Yours;
- (b) loss of or damage to property of Yours; or
- (c) other similar unforeseeable circumstances arising as a result of events beyond Your control.

**Plan Details** means the document titled "Plan Details" which sets out the relevant terms which may limit or vary these terms and conditions and which forms part of this Contract.

**Price** means the charge for gas supplied at the Supply Address as determined from time to time.

**Publish** means to advertise in The West Australian newspaper, place details on Our website, send You a notice or as otherwise agreed with the Economic Regulation Authority. Where required by law, We will also put a notice in the Government Gazette.

**Relevant Codes** means any codes and standards applying to the supply of gas under the Contract including the Customer Service Code, the Gas Marketing Code of Conduct, and the Australian Standard on Complaints Handling [AS/NZS 10002:2022].

**Relevant Regulations** means any laws and regulations applying to the supply of gas under the Contract, including the *Energy Coordination Act 1994 (WA)*, the *Energy Coordination (Customer Contracts) Regulations 2004 (WA)*, the Gas Tariffs Regulations, and the Australian Consumer Law.

**Reminder Notice** means a written notice in accordance with the Customer Service Code advising You that payment is overdue and that payment is to be made by the date specified in the notice. That date must be at least 20 Business Days after the date of the Bill.

**Retail Market Rules** has the same meaning as given in section 11ZOA of the *Energy Coordination Act 1994 (WA)*.

**Security** means a Security Deposit, a bank guarantee or another form of security acceptable to Us.

**Security Deposit** means an amount of money provided as security against You defaulting on a payment due under the Contract.

**Supply Address** means the address to which gas will be supplied under the Contract.

**Supply Date** means the date on which We will commence supply of gas to the Supply Address, being the date on which the Meter for the Supply Address has been read unless otherwise agreed. The indicative supply date is set out in the Plan Details.

**Suspension Period** has the meaning given in clause 21.

**Trading Licence** means Our Trading Licence under the *Energy Coordination Act 1994 (WA)*.

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

**Verifiable Consent** has the meaning in the Customer Service Code.

**Your Equipment** means all facilities and equipment used to transmit or use gas after the point where gas is transferred to You from the Meter.



## 2. This Non-Standard Contract

This Non-Standard Contract is a legally binding Contract for the sale of gas and other services at the Supply Address by Us and the payment for that gas and other services by You.

## 3. Gas and Services provided by Us

Under this Contract, We will:

- (a) arrange for connection of the Supply Address to the Network;
- (b) supply gas to the Supply Address at the Delivery Point; and
- (c) provide or arrange the associated services set out in this Contract from time to time, including the provision, testing and maintenance of the Meter Equipment in accordance with the requirements of law, disconnection and reconnection.

These services will be provided to You on the terms and conditions provided in this Contract and We will comply with the Relevant Regulations (including the standards of services set out in Part 5 of the *Energy Coordination (Customer Contracts) Regulations 2004 (WA)*) and the Relevant Codes.

However, We do not guarantee that gas will be supplied to You without interruption.

## 4. Price and Fees

You must pay Us:

- (a) the Price for all gas supplied to the Supply Address; and
- (b) all Fees payable under this Contract.

We will Publish the standard Price. A list of the standard Prices and Fees is set out on Our website at [www.kleenheat.com.au](http://www.kleenheat.com.au). If requested by You, We will send You a copy of Our standard Prices and Fees.

### 4.1 Price

The two types of Price that are applicable to this Contract are:

- (a) residential; and
- (b) non-residential.

The Price may be modified by the Plan Details. If the Plan Details indicate that a discount will apply for a minimum period, then:

- (c) subject to paragraph (d) below, after the end of the minimum period the discount will be the amount notified by Us to You from time to time; and
- (d) the discount stated in the Plan Details will continue to apply after the end of the minimum period until We notify another amount to You.

Unless We otherwise agree with You a different structure of the Price and how that Price is to be determined, a Price includes a fixed component and a usage component relating to the quantity of gas consumed by You. The fixed component and the usage component will be listed separately when a Price is Published and may be treated separately when We determine any discount applicable to a Price.

Unless You qualify to pay the residential Price, You must pay the non-residential Price.

A residential Price will be payable for a Supply Address which is a residential dwelling (including a house, flat, home unit or other place of residence) or if the Supply Address is not a residential dwelling but the gas supplied is separately metered, and the gas supplied is solely for residential use.

If You are paying a residential Price You must not use gas for any non-residential purpose without giving Us reasonable notice. We can apply the non-residential Price to You from the time that gas was used for a non-residential purpose and can back-date the non-residential Price up to a maximum of 12 months.

A non-residential Price will be payable for a Supply Address if the gas is used for commercial or business purposes.

## 4.2 Fees

Fees can be charged for the following, in addition to the Price:

- (a) account application;
- (b) overdue notices [see clause 7.3];
- (c) turning off the gas in certain circumstances [see clause 23];
- (d) turning the gas back on in certain circumstances [see clause 24];
- (e) removing or disconnecting the Meter [see clause 23.12];
- (f) replacing or reconnecting the Meter [see clause 24.3];
- (g) final Meter readings [see clause 20.4];
- (h) Meter testing [see clause 16];
- (i) early termination of Fixed Term Contracts [see clause 25.2]; and
- (j) various other non-standard connection costs.

This is not an exhaustive list of Our Fees, other Fees may apply. A full list of Fees is available on Our website.

## 4.3 Changing the Price and the Fees

We can change the Price or any Fee, and add new Fees or remove Fees from time to time, in accordance with the Gas Tariffs Regulations.

We will Publish any variation to the Price or any Fees payable by You. If You are affected by the variation to the Price or Fees, We will give notice as soon as practicable and, in any event, no later than the next Bill in Your Billing Period.

## 5. Benefit changes

Where there is a change to or expiry of a benefit (such as a discount) provided to You under this Contract before the date on which this Contract ends or is terminated:

- (a) We will inform You not more than 40 Business Days and not less than 20 Business Days before the date of the Benefit Change of:
  - (i) the Benefit Change; and
  - (ii) Your options for supply after the date of the Benefit Change; and
- (b) We will inform You of the matters in clause 5(a) by providing written notice to You, using the contact information We have for You by the usual method You receive Bills from Us.
- (c) You may terminate this Contract in accordance with clause 25.2 if You are dissatisfied about a Benefit Change.

## 6. GST

You must pay any goods and services tax payable on any supply made under this Contract.

## 7. Bills

### 7.1 Billing

We will use best endeavours to issue a Bill no more than once a month and at least every 105 days to You except where permitted by the Customer Service Code, the Trading Licence or where You have given Verifiable Consent to either a shorter or longer Billing Period. We will issue Bills to the address You nominate, which may be an email address. Such Bills will include the following information:

- (a) Your Supply Address, relevant mailing address, name and account number;
- (b) 24 hour contact telephone number for faults and emergencies;
- (c) telephone number for billing and payment enquiries;
- (d) due date for the Bill;
- (e) dates of the Meter reading or estimates at the end of the Billing Period;
- (f) current Meter reading or estimate at the end of the Billing Period;
- (g) number of energy units (e.g. Unit or gigajoules) of gas used or estimated to be used during the Billing Period;
- (h) Price or Prices (including separate itemisation of the fixed and usage components, where applicable) which apply to the supply of gas to You;
- (i) the Meter Equipment number or property number;
- (j) amount due;
- (k) GST component payable on the supply of gas to You;



- (l) any other Fee in connection with the supply of gas for the Billing Period and details of the service(s) provided, such as a reconnection Fee or a Fee for services provided (either at the request of You or due to a failure by You to perform an obligation under the Contract or Customer Service Code);
- (m) amount of arrears or credit;
- (n) Interest Rate charged on any arrears;
- (o) the payment methods available to You as set out in clause 11;
- (p) if You are paying the residential Price, reference to any concessions available to You from Us or concessions available from the Government;
- (q) availability, upon payment of a charge, of Meter Equipment testing and the refund of the testing charge if the Meter Equipment is found to be inaccurate;
- (r) availability of interpreter services;
- (s) a telephone number for You to call Us if You are experiencing financial difficulties;
- (t) any applicable Minimum Annual Bill charge; and
- (u) any other information required by the Customer Service Code or We deem relevant.

## 7.2 Other Goods and Services

If We provide goods or services in addition to those listed in clause 3, We may render an invoice for those goods or services separately. If We choose not to Bill separately, unless We and You have agreed to different terms and conditions, We shall:

- (a) include the charges for such goods and services as separate items in the Bill, together with a description of these goods and services;
- (b) apply payments received from You as directed by You; and
- (c) if You do not direct how the payment is to be allocated, We shall apply it:
  - (i) unless clause 7.2(c)(ii) applies, to the charges referred to in clauses 4.1 and 4.2 before applying it to any portion of the additional cost of such goods or services referred to in clause 7.2(a); or
  - (ii) if such goods or services include electricity, to the charges referred to in clauses 4.1 and 4.2 and the charges for electricity in equal proportion before applying any portion of it to any other such goods or services.

## 7.3 Failure to Pay

If You fail to pay the total amount of a Bill by the due date We will be entitled to:

- (a) charge interest on the amount that has not been paid, at the Interest Rate;
- (b) disconnect supply in accordance with clause 23 and charge a disconnection Fee;
- (c) charge You a Fee for each overdue notice sent to You unless prohibited by the Customer Service Code; and
- (d) charge a reconnection Fee if the supply of gas to You is disconnected due to Your default under this Contract and that default is subsequently remedied by You.

We may also shorten Your billing cycle in accordance with the Customer Service Code.

## 7.4 Overcharging and Undercharging

- (a) If We overcharge You as a result of an error, defect or default for which We or the Network Operator are responsible (including where a Meter has been found to be defective) then:
  - (i) We will use best endeavours to notify You within 10 Business Days after discovering the overcharging and give a correcting refund (without interest); and
  - (ii) You can choose whether the correcting refund is a credit to the account or a payment directly to You (except where the amount of a correcting refund is less than \$100, in which case We will automatically credit the amount to the account).
- (b) If We undercharge You as a result of an error, defect or default for which We or the Network Operator are responsible (including where a Meter has been found to be defective) then:
  - (i) the correcting payment will only relate to errors up to 12 months before the most recent Bill;
  - (ii) the correcting payment will be shown as a separate item in the Bill with an explanation; and
  - (iii) We will not charge interest on the correcting payment. You can choose to pay the correcting payment by instalments. We will not charge interest on the instalments.





## 7.5 Difficulties in Paying

If You are paying the residential Price and notify Us that You are experiencing difficulties in paying a Bill or require payment assistance, We will offer You instalment payment options or additional time to pay a Bill or the right to have a Bill redirected to a third person if the third person provides their Verifiable Consent, and provide You with information about and referral to Government assistance programs and information on independent financial counselling services.

We will consider all reasonable requests for alternative payment arrangements from customers paying the non-residential Price that are experiencing difficulties in paying a Bill. Where We offer You additional time to pay a Bill, You may be required to pay interest at the Interest Rate on the Bill amount during the period of additional time.

## 7.6 Debt Collection

Subject to any rights under the Customer Service Code, if You fail to pay the total amount of a Bill by the due date specified in that Bill, We reserve the right to refer the Bill to a debt collection agency or solicitor for recovery. All reasonable costs, expenses and disbursements incurred by Us (including debt collection agency fees and legal costs) will be payable by You on demand.

Despite anything in this clause 7.6, We will not commence proceedings to recover the debt if:

- (a) You have advised Us that You are experiencing Payment Difficulties or Financial Hardship and We have not complied with Our obligations to:
  - (i) assess You for Payment Difficulties or Financial Hardship; and
  - (ii) if You are assessed as having Payment Difficulties or Financial Hardship, offer You additional time pay and, if requested by You, an alternative payment arrangement; and
- (b) You continue to make payments under an alternative payment arrangement.

If You request Us to transfer a debt owing by You to another customer, We may transfer Your debt to another customer if the other customer provides their Verifiable Consent to the transfer.

## 7.7 Billing Data

If You request and the data is available, We will provide to You, free of charge, Your historical billing data for the previous 2 years. Where You request historical billing data beyond the previous 2 years, We may impose a reasonable charge for providing the data to recover the direct costs of providing the information.

## 7.8 Minimum Annual Bill

This clause only applies to customers paying the non-residential Price, if an Annual Contract Quantity that is greater than zero is specified in the Plan Details.

The Minimum Annual Bill in respect of a Contract Year is calculated as follows:

$$\text{MAB} = \text{P} * \text{ACQ} * \text{U}$$

where

**MAB** means the Minimum Annual Bill for the relevant Contract Year;

**P** means the Minimum Annual Bill Percentage;

**ACQ** means the Annual Contract Quantity specified in the Plan Details; and

**U** means the Price (per Unit).

The total charges in respect of a Contract Year are calculated as the Price (per Unit) multiplied by the total amount of Units supplied to You during the Contract Year.

If in respect of a Contract Year the total charges payable by You are less than the Minimum Annual Bill, We may charge You the difference between the Minimum Annual Bill and the total charges. We will bill You for this charge as soon as practicable after the end of such Contract Year.



## 8. Basis of a Bill

### 8.1 Reading of Meter Equipment

We shall:

- (a) base Your Bill on a reading of the Meter Equipment at the Supply Address; and
- (b) use Our best endeavours to ensure that a reading of the Meter Equipment at the Supply Address is obtained as frequently as required to meet Our obligations under the Customer Service Code and, in any event, will require the Network Operator to read the Meter Equipment at least once in any 12 months.

We may accept Your reading of the Meter Equipment at Our discretion. If We accept Your reading, We will not make any adjustment to the Bill for the billing cycle based on Your reading if We subsequently read the meter and find an error in Your favour.

## 9. Estimated Accounts

Where We are unable to base a Bill on a reading of the Meter Equipment at the Supply Address because:

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

We may provide You with an estimated Bill based on:

- (f) Your reading of the Meter Equipment;
- (g) Your prior billing history; or
- (h) where You do not have a prior billing history, the average usage of gas at the relevant Price, the average usage for the type of gas installation or the average usage at the Supply Address.

Where, because of circumstances referred to in clauses 9(a)-9(e), We have provided You with an estimated Bill and the Meter Equipment is subsequently read, We shall include an adjustment on the next Bill in accordance with the Meter Equipment reading unless the estimated Bill was used to finalise Your account.

If You have denied access to Us for the purposes of reading the Meter Equipment at the Supply Address and subsequently request Us to replace an estimated Bill with a Bill based on a reading of the Meter Equipment, provided You allow access to the Meter Equipment, We will comply with the request and may impose a reasonable charge for doing so.

## 10. Calculation of Consumption

We may charge gas consumption by the measurement of volume (cubic meters) and applying the heating value (the amount of energy in a given volume of gas) to represent the Bill in units (e.g. Units or gigajoules).

We may also calculate consumption through the measurement of gas from a master Meter and utilise other measurement devices to calculate Bills for individual usage of a product (where required).

## 11. Methods of Payment

Unless otherwise permitted by this Contract or agreed to by You and Us, You must pay to Us the full amount of the Bill by the due date. The Bill will show the options available for payment. Payment options include:

- (a) paying in person;
- (b) paying by mail;
- (c) paying electronically by means of:
  - (i) direct debit;
  - (ii) a debit card; or
  - (iii) a credit card;
- (d) paying by telephone by means of:
  - (i) a debit card; or
  - (ii) a credit card;
- (e) paying by BPay; or
- (f) any other methods agreed by Us.

The Plan Details may limit or modify the methods of payment available under this Contract.



If You will be absent for a long period (e.g. on holiday or due to an illness) and are unable to arrange payment by one of the above methods, We will also offer payment in advance facilities and redirection of Your Bill as requested by You.

If the Plan Details state that payment must be made by direct debit under Your Contract, then, unless otherwise specified in the Plan Details, We have the ability to adjust the Price and Fees (including any discount to the Price or Fees) payable under this Contract if a payment by direct debit fails for any reason (other than a reason attributable to Us). Where three consecutive direct debit payments fail for any reason (other than a reason attributable to Us) then this will be a substantial breach of the Contract and may entitle Us to terminate the Contract in accordance with clause 25.3.

## 12. Security

### 12.1 Security may be required

If You are not eligible to pay the residential Price if requested by Us You must provide Us with permission to investigate Your credit history and any information You hold in relation to Your credit history. Security may only be required where You are not eligible to pay the residential Price. If so, Security may be required against future Bills before connection if You are a new customer, or continuation of supply if You are an existing customer. Security may only be required when:

- (a) You owe Us an amount in relation to the supply of gas at any Supply Address under this Contract or any other current or previous Contract unless You have disputed the Bill and the Bill is still subject to either a review by Us or a complaint to the Energy Ombudsman; or
- (b) within 2 years before entering into this Contract, You have either fraudulently obtained gas, or consumed gas intentionally and unlawfully; or
- (c) We reasonably decide You do not have an acceptable credit rating to Us, or You have an unsatisfactory credit history or unsatisfactory history related to paying for gas.

We will inform You and provide reasons for Our decision if We reasonably decide You have an unsatisfactory credit history or unsatisfactory history relating to paying for gas under clause 12.1(c). We will also advise You of Our complaints handling process and the Energy Ombudsman scheme.

### 12.2 Details of Security Deposit

Where You have provided a Security Deposit in accordance with this clause 12, the following will apply:

- (a) The amount of the Security Deposit shall be no greater than 37.5% of Your estimated Bills over a 12 month period based on Your historical billing data or the average consumption of gas by a similar business type or customer over a comparable 12 month period.
- (b) The Security Deposit will be kept in a separate trust account and separately identified in Our accounting records. We will pay You Interest on the Security Deposit at the Bank Bill Swap Rate, accrued daily and capitalised every 90 days unless paid. We will advise You of the Bank Bill Swap Rate on request.
- (c) We will only use the Security Deposit (plus any applicable accrued interest) to offset, in full or partially, any amount owed to Us:
  - (i) if the Bill has not been paid resulting in gas being turned off at Your Supply Address;
  - (ii) if a final Bill issued under this Contract is not paid;
  - (iii) if the Bill has not been paid but We agree to use the Security Deposit to avoid the need to turn the gas supply off;
  - (iv) at Your request, if You are vacating the Supply Address or ask Us to turn gas off at the Supply Address; or
  - (v) to offset any amount owed to Us if You transfer to another gas supplier.
- (d) Where We use the Security Deposit in accordance with this clause 12, We will provide You with a written statement of how it was used and repay the balance (if any) and remaining interest (if any) to You within 10 Business Days.
- (e) Where You have provided a Security Deposit in accordance with this clause 12, then subject to clause 12.2(c) and 12.2(d), We will return the balance of any Security Deposit and any accrued interest payable to You within 10 Business Days after:
  - (i) You have left the Supply Address; or
  - (ii) We have disconnected supply at the Supply Address at Your request; or
  - (iii) You have transferred to another retailer.
- (f) We will return the balance of any Security Deposit and any accrued interest payable to You in accordance with any reasonable instruction. If We do not receive reasonable instruction from You, We will credit the relevant amount to Your account or Your final Bill as applicable.



## 13. Network Equipment

### 13.1 Network Equipment

The Network Operator will in accordance with the Distribution Standards provide, install and maintain Network Equipment for the supply of gas up to the point of supply, Meter Equipment and necessary ancillary equipment at the Supply Address. Ownership of the Meter Equipment will not pass to You. All equipment located after (downstream of) the point where gas leaves the Meter Equipment at the Supply Address that is used to transport, control or consume gas is Your Equipment (except any Network Equipment).

You must:

- (a) keep Your Equipment in good working order and good condition;
- (b) not let anyone other than a person who is permitted to perform gasfitting work under the *Gas Standards (Gasfitting and Consumer Gas Installations Regulations) 1999 (WA)* work on Your Equipment;
- (c) not damage or interfere with Network Equipment; and
- (d) not use gas in a way that interferes with Network Equipment, with the supply of gas to anyone else, or in a way that causes loss to anyone else.

### 13.2 Interference

You must not, and must not allow any other person to, tamper with, adjust, disconnect, by-pass, interfere with or otherwise damage or render inoperable or inaccurate the Meter Equipment or take or attempt to take gas before it reaches the Meter Equipment. You must immediately notify Us after becoming aware of any circumstances which might reasonably be expected to affect the accuracy of the Meter Equipment. You must not turn gas on at the Meter Equipment, without Our permission, if the gas has been turned off by Us or the Network Operator.

## 14. Connections

### 14.1 Existing Connections

We will use Our best endeavours to arrange supply to You at the Supply Address within a period agreed by You if:

- (a) there is adequate gas supply available;
- (b) the gas installation at the Supply Address complies with regulatory requirements; and
- (c) the Meter Equipment at the Supply Address is available for use by Us, provided that:
  - (d) You make an application in a form acceptable to Us (the Plan Details may limit or modify the form of application) and provide acceptable identification as required by Us;
  - (e) You agree to pay Us all relevant Fees and charges;
  - (f) You provide contact details for billing purposes; and
  - (g) You do not have an outstanding debt in relation to the gas supplied by Us to You other than a debt the subject of a dispute, or for which repayment arrangements have been made,and where required by Us:
  - (h) You satisfy Us that necessary safe, convenient and unhindered access to the Supply Address, the Meter Equipment and the gas installation is available;
  - (i) You provide Us with information on the number and types of appliances installed, number of household occupants and anticipated usage of appliances;
  - (j) You will ensure that the notices of installation or completion of gas installation work from a gas installer are provided to Us;
  - (k) You have provided Us with estimated gas load information for Your proposed use at the Supply Address;
  - (l) any credit check of You requested by Us is satisfactory to Us; and
  - (m) if permitted and where required by Us, You have provided Security in accordance with clause 12.

## 14.2 New Connections

Where the Supply Address has not previously been supplied with gas, and We and You have not agreed a date on which supply of gas will be available at the Supply Address, then, provided You satisfy the requirements of this clause, We will arrange for the Network Operator to connect the Supply Address within a reasonable time from the date of Your application. Before We supply You gas at the Supply Address each of the following conditions must be satisfied:

- (a) the conditions in clause 14.1 are satisfied;
- (b) You do the things listed in clause 14.1;
- (c) where required by Us, You shall ensure that the notices of installation or completion of gas installation work from a gas installer are provided to Us; and
- (d) if the request is made for a rental property, You provide contact details for the property owner or the owner's agents, if required by Us.

## 15. Meter Reading

Subject to there being any proven inaccuracy in the Meter Equipment, You acknowledge and agree that the readings on the Meter Equipment taken by Us, the Network Operator or its representative at the beginning and end of a Billing Period, is conclusive evidence of the volume of gas You have used during the Billing Period. In the event there is a proven inaccuracy in the Meter Equipment, We will arrange for the Network Operator to change the Meter at no cost to You, provided the inaccuracy was not caused by You.

## 16. Meter Testing

You may request the Meter Equipment be tested to establish whether there is any inaccuracy in the Meter Equipment readings. We will use best endeavours to respond to You within 7 days of the date of receipt by Us of the request. If the Meter Equipment is found to be inaccurate, We will:

- (a) arrange for the Network Operator to replace the Meter Equipment in accordance with clause 15 of this Contract;
- (b) adjust Your account for the amount of any undercharge or overcharge for the Billing Period in which the inaccuracy was proven, calculated in accordance with clause 7.4 of this Contract; and
- (c) not charge You for testing the Meter Equipment.

If the Meter Equipment is not found to be inaccurate, or the inaccuracy is a result of You interfering with or damaging the Meter, You must pay a testing Fee, as published on Our website.

## 17. Access to Supply Address

You must provide safe and unrestricted access at the Supply Address to:

- (a) read the Meter;
- (b) inspect, install, operate, maintain, renew and replace any Network Equipment;
- (c) turn off Your gas supply if We or the Network Operator think it necessary;
- (d) inspect Your gas installation (although We are under no obligation to do so); or
- (e) at any reasonable time, for any reasons having to do with this Contract or for the purposes of inspection authorised by law.

If You do not provide access as required under this clause, We will not be liable to You for any loss or damage suffered by You as a result of You not providing safe and unrestricted access at the Supply Address and We may, in addition to any other rights, suspend the supply of gas to You, in accordance with clause 23.

## 18. You must notify Us of Certain Matters

You must promptly notify Us of:

- (a) any change in the identity of the person responsible for paying Bills;
- (b) any change in Your contact details, email address or postal address nominated by You;
- (c) any change in Your use of gas or the purpose of the use of gas; and
- (d) any fault, gas leak or other problem with the Meter Equipment or Network Equipment.

## 19. Entering the Supply Address

In relation to a new gas connection, You will be charged for gas supplied at the Supply Address from the date and time that We first commence gas supply to the Supply Address. In relation to an existing gas connection, if a final Meter reading has not been carried out on the day the previous customer left the Supply Address, We will estimate Your gas usage and the previous customer's Gas usage and will endeavour to fairly share the charges between You and the previous customer.

## 20. Leaving the Supply Address

### 20.1 Notice

You must notify Us before You leave the Supply Address. You must give at least 3 Business Days' notice of the date on which You intend to vacate the Supply Address and You must provide a forwarding address to which a final Bill may be sent.

### 20.2 Responsibility for gas

- (a) Where You have given notice of vacating the Supply Address in accordance with clause 20.1, We may require You to remain responsible for paying the gas supplied to the Supply Address and otherwise remain responsible to Us in respect of the supply to the date notified unless You can demonstrate to Us that You were forced to vacate the Supply Address earlier.
- (b) If You do not give notice in accordance with clause 20.1 We may require You to remain responsible for paying for the gas supplied to the Supply Address and otherwise remain responsible to Us in respect of the supply up until the earlier of:
  - (i) 3 Business Days after notice is given;
  - (ii) We become aware that You have vacated the Supply Address and We have ceased supply of gas to the Supply Address;
  - (iii) a new customer commences to take supply at the Supply Address; or
  - (iv) the date that You provide notice that You were forced to vacate the Supply Address.

### 20.3 New Customer

If You leave the Supply Address and another customer enters into a contract with Us for the Supply Address, You are not required to pay for any gas supplied at the Supply Address after the time when the new customer's obligations to pay for gas supplied under the new contract takes effect.

### 20.4 Final Charges

The final charge payable by You will be determined according to a final reading of the Meter Equipment. If a final reading is not performed on the day You leave the Supply Address, We will estimate Your gas usage and the new customer's gas usage and endeavour to fairly share the charge between You and the new customer. We may charge a Fee for a final reading of the Meter Equipment.

## 21. Matters beyond Our control

If a Matter Beyond Our Control prevents or renders Us unable to supply You with gas or comply with any other obligation under this Contract, that obligation will be suspended for as long as We are prevented from performing Our obligations under this Contract (**Suspension Period**). Without limiting Our other rights under this Contract, during the Suspension Period We will not be liable to You for any loss or damage suffered by You as a result of Our inability to supply. The Suspension Period will end when the cause of Our inability to supply is rectified or the cause becomes within Our reasonable control. Upon the cessation of the Suspension Period, We will, as soon as is reasonable, resume supply under this Contract.

You must continue to pay Your Bills as this Contract requires during any Suspension Period. If You don't, We will be entitled to do any of the things outlined in clauses 7.3 and 7.6 of this Contract and, if permitted, terminate this Contract.

## 22. Matters beyond Your control

If a Matter Beyond Your Control occurs other than a failure to pay a Bill by the due date, which causes You to be unable to comply with this Contract, You must notify Us immediately and We will excuse that non-compliance for as long as the Matter Beyond Your Control continues to prevent compliance by You.

You will not be liable to Us for any loss or damage suffered by Us as a result of Your non-compliance for as long as the Matter Beyond Your Control continues to prevent compliance by You. However, You must still pay Your Bill by the due date shown on the Bill, even if some matter were to happen outside Your reasonable control.

## 23. Disconnection of Supply

Supply of gas to the Supply Address may be discontinued or disconnected as follows:

### 23.1 Disconnection at Your Request

You may request Us to arrange the disconnection of the Supply Address by giving not less than 5 Business Days prior written notice to Us.

We will use Our best endeavours to arrange disconnection of supply and finalise Your accounts in accordance with Your request.

## 23.2 Disconnection for Unpaid Bills

### (a) Notice

Before disconnecting supply for non-payment of a Bill, We must:

- (i) give You a Reminder Notice no earlier than 14 Business Days after the date the Bill was issued; and
- (ii) if payment is not made on or before the date specified in the Reminder Notice, give You a Disconnection Warning no earlier than 22 Business Days after the date the Bill was issued.

### (b) Circumstances in which We may disconnect

Subject to this clause 23, We may disconnect supply to the Supply Address or may notify the Network Operator that We no longer supply gas to You at the Supply Address if You have not:

- (i) paid any amount owing to Us by the due date;
- (ii) agreed to an offer of an instalment plan or other payment option to pay; or
- (iii) adhered to Your obligations to make payments in accordance with an agreed payment plan relating to the Price or other Fee incurred at the current Supply Address or any previous Supply Address.

When We notify the Network Operator that We no longer supply gas to You at the Supply Address, the Network Operator may disconnect the Supply Address without further notice to You.

### (c) If You qualify for the residential Price

Where You qualify to pay the residential Price, but because of a lack of sufficient income or other means on Your part You are unable to pay Us the residential Price or other Fee, We shall not disconnect the gas supply to the Supply Address or notify the Network Operator that We no longer supply gas to You at the Supply Address until:

- (i) We have:
  - (A) offered You alternative payment options of the kind referred to in the Customer Service Code and outlined in clause 7.5;
  - (B) given You information on Government funded concessions as outlined in the Customer Service Code and clause 7.5;
  - (C) used Our best endeavours to contact You personally by mail, email or by telephone; and
  - (D) given You, at least 10 Business Days' notice of Our intention to disconnect or cease supplying gas to You in a written Disconnection Warning notice. The 10 Business Days is counted from the Date of Receipt of the Disconnection Warning notice; and
- (ii) You have:
  - (A) refused or failed to accept the offer within the time specified by Us; or
  - (B) accepted the offer, but refused or failed to take any reasonable action towards settling the debt within the time specified by Us.

### (d) If You don't qualify for the residential Price

We shall not disconnect the supply to Your business Supply Address or notify the Network Operator that We no longer supply gas to You at the Supply Address unless:

- (i) We have:
  - (A) offered You additional time to pay a Bill (which may include a requirement to pay interest at the Interest Rate on that amount during the period of additional time);
  - (B) used Our best endeavours to contact You personally, by telephone or by electronic means; and
  - (C) given You, at least 5 Business Days' notice of Our intention to disconnect or cease supplying gas to You in a written Disconnection Warning notice. The 5 Business Days is counted from the Date of Receipt of the Disconnection Warning notice; and
- (ii) You have:
  - (A) refused or failed to accept the offer within a time (not less than 5 Business Days) specified by Us; or
  - (B) accepted the offer, but have refused or failed to take any reasonable action towards settling the debt within a time (not less than 5 Business Days) specified by Us.



### 23.3 Disconnection for Denying Access to the Meter Equipment

Where You fail to provide access to the Supply Address or We or the Network Operator are denied access to the Supply Address for the purposes of reading the Meter Equipment for the purposes of issuing 3 consecutive Bills in Your billing cycle, We may disconnect gas supply to the Supply Address or may notify the Network Operator that We no longer supply gas to You at the Supply Address.

However, We will not disconnect or notify the Network Operator unless We have:

- (a) given You an opportunity to offer reasonable alternative access arrangements;
- (b) on each of the occasions We or the Network Operator were denied access, given You written notice in accordance with the Customer Service Code advising of the next date of the Meter reading, requesting access to the Meter Equipment at the Supply Address and advising of Our ability to arrange for disconnection if You fail to provide access;
- (c) used Our best endeavours to contact You personally by telephone or by electronic means; and
- (d) given You at least 5 Business Days' notice of Our intention to disconnect or cease supplying gas to You in a written Disconnection Warning notice. The 5 Business Days is counted from the Date of Receipt of the Disconnection Warning notice.

### 23.4 Disconnection for Emergencies

We or the Network Operator may disconnect or interrupt supply to the Supply Address in case of an Emergency. Where supply is disconnected in the case of an Emergency the Network Operator shall:

- (a) provide, by way of its 24 hour emergency line, information on the nature of the Emergency and an estimate of the time when supply will be restored; and
- (b) use its best endeavours to reconnect or secure reconnection at the Supply Address as soon as possible.

### 23.5 Disconnection for Health and Safety Reasons

We or the Network Operator may disconnect or interrupt supply to the Supply Address for reasons of health or safety. Except in the case of an Emergency, or where there is a need to reduce the risk of fire or where relevant regulatory requirements require it, We or the Network Operator shall not disconnect the Supply Address for a health or safety reason unless We or the Network Operator have:

- (a) given You written notice of the reason;
- (b) where You are able to do so, allowed You 5 Business Days to remove the reason (the 5 Business Days shall be counted from the Date of Receipt of the notice); and
- (c) on the expiry of those 5 Business Days, given You, at least an additional 5 Business Days' notice of Our intention to disconnect or cease supplying gas to You in Disconnection Warning notice. The 5 Business Days shall be counted from the Date of Receipt of the Disconnection Warning notice.

### 23.6 Disconnection for Planned Maintenance

We or the Network Operator may disconnect or interrupt supply to the Supply Address for the purposes of planned maintenance on, or augmentation to, the Network. We or the Network Operator will not exercise a right to disconnect unless We or the Network Operator have used best endeavours to give You notice of the intention to disconnect. The notice period shall be at least 4 days or such other period as specified by regulatory requirements. We or the Network Operator shall use best endeavours to minimise interruptions to supply occasioned by planned maintenance or augmentation and restore supply as soon as practicable.

### 23.7 Disconnection for Your Unauthorised Use of Gas

We or the Network Operator may disconnect supply to the Supply Address immediately where You have obtained the supply of gas at the Supply Address otherwise than in accordance with the Customer Service Code, the Contract or in breach of any Relevant Regulations and Relevant Codes.

This includes, for example, if You commit a fraud relating to Our supply of gas to You at the Supply Address, or if You get gas supplied to the Supply Address illegally.

### 23.8 Disconnection for Refusal to provide Security

Subject to Our Trading Licence and the requirements in any Relevant Code, We may disconnect supply to the Supply Address or notify the Network Operator that We no longer supply gas to You at the Supply Address, where You fail or refuse to pay, in whole or in part, a Security Deposit or provide any other form of Security required by Us under this Contract.

We will not exercise Our right to disconnect or notify the Network Operator that We no longer supply gas to You at the Supply Address, for failure to pay a Security Deposit or provide another form of Security, unless We have given You not less than 5 Business Days written notice of Our intention to disconnect (the 5 Business Days shall be counted from the Date of Receipt of the notice).



### 23.9 When We will not Disconnect

We will not disconnect supply to the Supply Address or notify the Network Operator that We no longer supply gas to You at the Supply Address:

- (a) if You fail to pay a Bill where the amount outstanding is less than an average Bill over the past 12 months and You have, in accordance with the Customer Service Code, agreed with Us to repay the amount;
- (b) where You have made a complaint, directly related to the reason for the proposed disconnection, to Us or the Energy Ombudsman and the complaint remains unresolved;
- (c) where You have made an application for a Government concession or grant and the application has not been decided;
- (d) where You have failed to pay an amount on a Bill which does not relate to the gas supply but relates to some other goods and/or services;
- (e) after 3pm on Monday to Thursday (except in the case of a planned interruption or Emergency);
- (f) on a Friday, Saturday, Sunday, a public holiday or on the day before a public holiday, except in the case of a planned interruption or Emergency; or
- (g) except in circumstances where disconnection is required under the *Gas Standards Act 1972 (WA)*, if You have provided Us with a written statement from a Medical Practitioner to the effect that supply is necessary in order to protect the health of a person who lives at the Supply Address and You have entered into arrangements acceptable to Us in relation to the payment of gas supplied.

### 23.10 Your Assistance

You must assist Us to disconnect supply and give Us and the Network Operator permission to enter the Supply Address to remove any property specified under this Contract which belongs to Us or the Network Operator. You must pay all reasonable costs associated with the disconnection of the supply of gas to You, including but not limited to the Fee referred to in clause 23.12, regardless of whether the election was by You or Us and for whatever reason, provided that You will not be required to pay for the cost of a disconnection where the disconnection occurs under clauses 23.4, 23.5, 23.6 or 23.11.

### 23.11 Disconnection by Law

Where We are required by law to reduce supply to a customer, You must use less gas. If We are required by law to disconnect gas supply to the Supply Address, You must stop using gas. There is no Fee for disconnection and reconnection of gas supply in either of those cases.

### 23.12 Fees

Where You are disconnected under this Contract, We or the Network Operator may remove or physically disconnect the Meter. We may charge a Fee for this but will not charge a Fee where the disconnection occurs under clauses 23.4, 23.5, 23.6 or 23.11.

## 24. Reconnection after Disconnection

### 24.1 Reconnection Circumstances

We will, subject to the provisions of any law or Relevant Codes, arrange for the reconnection of supply if:

- (a) within 10 Business Days after disconnection for non-payment of a Bill, You pay the overdue amount or make an arrangement for its payment;
- (b) within 10 Business Days after disconnection for denial of access to the Meter Equipment, You provide access to the Meter Equipment;
- (c) within 10 Business Days after disconnection for unlawful consumption of gas, You pay for the gas consumed;
- (d) within 10 Business Days after disconnection for refusal to pay a Security Deposit or provide another form of Security, You pay the Security Deposit or provide the Security; or
- (e) within 20 Business Days after disconnection in any Emergency for health, safety or maintenance reasons, the situation or problem giving rise to the need for disconnection has been rectified, and You request reconnection and pay any applicable reconnection Fee. We will not charge a Fee where the disconnection occurred under clauses 23.4, 23.5, 23.6 or 23.11.

## 24.2 Timing

If We are under an obligation to arrange for reconnection and You make a request for reconnection and, if requested by Us, You pay Our reconnection Fee (or enter into an instalment plan for that reconnection Fee):

- (a) before 3pm on a Business Day, We will use Our best endeavours to make the reconnection or cause the Network Operator to make the reconnection on the day of the request;
- (b) after 3pm on a Business Day, We will make the reconnection or cause the Network Operator to make the reconnection as soon as possible on the next Business Day; or
- (c) after 3pm on a Business Day and before the close of normal business and pay Our after-hours reconnection charge, We will make the reconnection or cause the Network Operator to make the reconnection on the day requested by You.

## 24.3 Fees

If the Meter has been removed or physically disconnected due to Your disconnection, We may charge a Fee for replacing or physically reconnecting the Meter but will not charge a Fee where the disconnection occurs under clauses 23.4, 23.5, 23.6 or 23.11.

## 25. Termination

### 25.1 Disconnection at Your Request

This Contract is terminated if We procure the disconnection of the Supply Address at Your request (other than an agreed temporary disconnection).

### 25.2 Termination by Notice

Where this Contract is a Fixed Term Contract, the following will apply:

- (a) Subject to clause 25.2(b), You may terminate this Contract before the end of the Fixed Term by telephoning Us and giving Us not less than 20 Business Days prior notice.
- (b) If You terminate this Contract under clause 25.2(a), We may charge You the Early Termination Fee. The Early Termination Fee will be an amount determined by Us and not exceeding 75% of the Minimum Annual Bill that would have been payable by You under clause 7.8 for the period between the date of termination and the end of the Fixed Term. It is calculated using the prevailing Price on the termination date.
- (c) The parties acknowledge and agree that:
  - (i) We incur costs in reserving quantities of gas in order to meet Our supply obligations to You under this Contract;
  - (ii) as a result, We suffer loss if You terminate this Contract before the end of the Fixed Term; and
  - (iii) the Early Termination Fee represents a reasonable and good faith estimate of the loss that will be suffered by Us arising from the early termination of this Contract, and is not a penalty.

Where this Contract is not a Fixed Term Contract (or the Contract has automatically renewed at the expiration of the Fixed Term), You may terminate this Contract by giving at least 3 Business Days' notice to Us.

### 25.3 Our Termination Rights

Without prejudice to any other right or remedy and in addition to any statutory or other right to suspend or cut off the supply of gas to the Supply Address, subject to clause 25.4 We may terminate this Contract with immediate effect if You:

- (a) commit a substantial breach of this Contract;
- (b) become insolvent;
- (c) go into liquidation; or
- (d) commit an act of bankruptcy.

We may terminate this Contract by giving 10 Business Days written notice if You commit a breach of this Contract, other than a substantial breach, and We have:

- (e) a right to disconnect supply under this Contract, a written law or a Relevant Code; and
- (f) disconnected supply at the Supply Address or any other premises You have which is supplied gas by Us.

Subject to clauses 25.3(e) and 25.3(f), We may otherwise terminate this contract in Our sole discretion at any time by providing 20 Business Days prior written notice to You.



## 25.4 When Termination Takes Effect

Despite any other provision of this Contract, the termination of this Contract by Us or You does not have effect until:

- (a) in the case of termination because You have entered into another contract with Us, the Cooling-off Period (if any) for that other contract expires;
- (b) in the case of termination because You have entered into a contract with another retailer, You are transferred to the other retailer in accordance with the Retail Market Rules for the distribution system concerned; or
- (c) in the case of termination following disconnection, You no longer have any right to reconnection under the provisions of this Contract, a written law or a Relevant Code.

## 25.5 Events Upon Termination

If this Contract is terminated:

- (a) We may arrange for a final Meter reading and for disconnection on the day on which this Contract ends;
- (b) We may issue a final Bill to You;
- (c) We may, subject to the provisions of any written law or Relevant Code, charge You a Fee for the final Meter reading, disconnection and final Bill;
- (d) We or the Network Operator may remove any Network Equipment at any time after the day on which this Contract ends;
- (e) You must allow Us or the Network Operator safe and unrestricted access to the Supply Address for the purpose of removing Network Equipment; and
- (f) if You want Us to supply gas to You again, You must enter into a new contract with Us.

## 25.6 Cooling-off Period

In addition to Your rights under this Contract You can end this Contract by giving Us notice that You want this Contract to end within the Cooling-off Period.

We will not supply You with gas during the Cooling-off Period, unless You request supply.

If, at Your request, We supply gas to You during the Cooling-off Period and You end the Contract during the Cooling-off Period, We may charge You for any gas and associated services supplied to You during this period.

## 25.7 Contract expiry

This Contract will come into effect on the Acceptance Date. Subject to acceptance by Us of Your request for the supply of gas and to the terms of this Contract, We will commence the supply of gas on and from the Supply Date. This Contract will continue for the Contract Term, unless terminated earlier in accordance with this clause 25 or renewed by notice in accordance with this clause.

Where this Contract is a Fixed Term Contract, We must give You notice, not more than 40 Business Days and not less than 20 Business Days before the end of the Fixed Term of:

- (a) the date on which the Contract Term will expire;
- (b) the available options for supply after the expiry of the Contract Term; and
- (c) the terms on which this Contract will automatically be renewed if You do not choose any other option for supply.

We will give You the notice contemplated by this clause if this is a Fixed Term Contract. We are not required to give You notice if You have already entered into a new contract for the same Supply Address with Us for a Fixed Term or You have informed Us of the option You have chosen for supply after the expiry of the Contract Term.

Where this Contract is for a Fixed Term of less than 1 month, We will give You the notice required under this clause at the commencement of the Contract Term.

## 25.8 Survival of Obligations

Termination of the Contract does not release either party from an obligation which arose before the Contract was terminated. Notwithstanding termination, Your obligations under this Contract prior to termination continue until We have received all money payable to Us in relation to this Contract and specifically, subject to clause 20 and Our obligations under the Customer Service Code, You remain liable to pay for all gas delivered to the Supply Address and related Fees and charges after termination.

## 26. Title and Risk

Title to, and risk in, all the gas supplied to the Supply Address will pass to You at the Delivery Point for the Supply Address. Subject to this Contract and the Australian Consumer Law, You will bear all loss or damage arising out of or in any way directly or indirectly connected with gas supplied after title and risk to the gas has passed to You.

## 27. Exclusions

### 27.1 No Warranty

If You are a consumer within the meaning of the Australian Consumer Law, We may be taken to have given You certain consumer guarantees about the supply of goods or services to You. If We fail to comply with those consumer guarantees, then You may have statutory rights against Us under the Australian Consumer Law that We cannot exclude, restrict or modify.

Where any gas or other goods or services (if any) are not of a kind ordinarily acquired for personal, domestic or household use or consumption, Our liability for breach of any consumer guarantee applicable to Our supply of those goods or services is, to the extent permitted by the Australian Consumer Law, limited to any one or more of the following, as determined by Us:

- (a) the supply of equivalent goods or the supply of the services again, as applicable; or
- (b) the payment of the cost of acquiring equivalent goods or having the services supplied again, as applicable.

This clause 27.1 applies despite any other provision of this Contract to the contrary. We make no additional express guarantees, warranties or other representations under this Contract. Our liability in respect of these guarantees, warranties or other representations is limited to the fullest extent permitted by law.

Nothing in this Contract is to be taken to exclude, restrict or modify Your rights under law if and to the extent that We are prohibited by law from excluding, restricting or modifying them. This applies whether or not You are a consumer within the meaning of the Australian Consumer Law.

### 27.2 Consequential Loss

Subject to clause 27.1, to the fullest extent permitted by law We will in no case whatsoever (including negligence) be liable for any loss of profits, loss caused by stoppages in production or business interruption, reliance losses, damages for loss of opportunity, liability suffered by You to third parties or any consequential or indirect loss or damage.

## 28. Indemnity

Subject to clause 27.1, to the fullest extent permitted by law You indemnify Us against all expenses, losses, damages and costs that We may sustain or incur as a result of a claim by any person (including You) arising out of or connected with the gas supplied by Us or any breach by You of this Contract except to the extent attributable to Our negligence.

## 29. Set Off

We may set off any amount owing to Us under this Contract against any amount payable by Us to You under this Contract. Nothing in this Contract limits Our ability at law to set off any amount owing to Us under this Contract against any amount payable by Us to You under another contract You may have with Us, or to set off any amount payable by Us to You under this Contract against any amount owing to Us under another contract You may have with Us.

## 30. Notices and Information

Where this Contract refers to 'notice' then, the notice given to a party must be in writing and delivered by SMS (short message service), email or prepaid letter to the number or address of that party set out in this Contract for such purposes (or such other address as the party may by notice substitute) and will be considered to have been received on the Date of Receipt.

## 31. Complaints and Disputes

You may:

- (a) make a complaint to Us about Our acts or omissions;
- (b) if You are not satisfied with Our response to the complaint, raise the complaint to Our customer advocate and/or Our customer service operations manager; and
- (c) if after raising the complaint to a higher level, You are not satisfied with Our response, refer the complaint to the Energy Ombudsman, as appropriate.

We will handle customer disputes and complaints in accordance with the Australian Standard on Complaints Handling (AS/NZS 10002:2022), Publish information which will assist You in utilising Our complaints handling process and on request will provide You with information on Our complaints handling process and the Energy Ombudsman scheme of which We are a member.



## 32. Amendment of Contract

We may amend, delete or introduce any term or condition of this Contract from time to time without Your consent:

- (a) to the extent that the amendment is required for the Contract to remain consistent with a written law, Relevant Regulation or Relevant Code; or
- (b) where We consider it is reasonable or necessary to do so.

We will notify You of any amendment to the Contract. If You do not agree with any amendment to this Contract, You may terminate this Contract in accordance with clause 25.2.

## 33. Availability of Contract

A copy of this Contract or any of the documents referred to in this Contract are available to You, free of charge, from Us if You request it or by visiting Our website at [www.kleenheat.com.au](http://www.kleenheat.com.au).

## 34. Access to Information

You may request from Us any information which is held by Us concerning the supply of gas to the Supply Address and standard Meter readings for the Supply Address connected with Your Bills, the status of Your Bills, a copy of the *Energy Coordination (Customer Contracts) Regulations 2004 (WA)* or any Relevant Code, information about the Price and Fees payable under this Contract, information about energy efficiency, billing data and contact details for obtaining information about Government assistance programs or financial counselling services. We will provide standard information requested in accordance with the standards of service set out in the Relevant Regulations and if no such standard of service applies, within a reasonable time of the request. Unless a law or Our Trading Licence requires Us to provide the information free of charge, We can ask You to pay a reasonable charge.

## 35. Confidentiality and Privacy

### 35.1 Confidentiality

We will keep confidential Your information in accordance with the Customer Service Code, unless:

- (a) You give Us prior written consent to disclose the information to a third party;
- (b) disclosure is required to comply with any accounting or stock exchange requirement (such information disclosed will, as far as possible, be in an aggregated form);
- (c) disclosure is required to comply with any legal or regulatory requirement, or in the course of legal or other proceedings or arbitration;
- (d) the information is already in the public domain; or
- (e) We believe You have used gas illegally and We must provide Your information to the Network Operator or the Director of Energy Safety or the police.

### 35.2 Privacy

We will only collect, use and disclose Your personal information as permitted by the Privacy Act 1988 (Cth) and the Australian Privacy Principles, and in accordance with Our Collection of Information Statement and Privacy Policy, a copy of which is available on Our website. We have security measures in place to protect personal information under Our control. We de-identify and securely destroy personal information when it is no longer required and information stored within Our computer systems can only be accessed by authorised personnel.

## 36. Successors and Assigns

You must not assign this Contract without the prior written consent of Us. We may assign this Contract without Your consent and without giving You notice of such assignment, to any person We believe has reasonable commercial and technical capability to perform obligations under this Contract. In the event that either party assigns its interests under this Contract, all the terms and conditions of this Contract will be binding upon and enure to the benefit of the successors and assigns of the parties.

## 37. Governing Law

This Contract is governed by and construed in accordance with the laws of Western Australia and the parties submit to the jurisdiction of the courts of Western Australia.



### 38. Compliance with Laws

Each party's obligations under this Contract are subject to that party's obligations under applicable laws, regulations and conditions of any governmental authorisations. Any failure to comply with an obligation under this Contract resulting from compliance with an inconsistent or conflicting obligation under any applicable laws, regulations or conditions of any applicable governmental authorisation does not give rise to a breach of this Contract. The Contract also does not in any way limit Our or Your obligations to comply with the lawful directions of any authority, including the Minister for Energy, the Coordinator of Energy, the Director of Energy Safety and the Police and Fire and Emergency Services in relation to emergencies and safety or otherwise.

### 39. Severability

If the whole or any part of this Contract is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this Contract has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 39 has no effect if the severance alters the basic nature of this Contract or is contrary to public policy.

### 40. Waivers

The failure to exercise or delay in exercising a right or remedy under this Contract will not constitute a waiver of the right or remedy or a waiver of any other rights or remedies and no single or partial exercise of any right or remedy will prevent any further exercise of the right or remedy or any other right or remedy.

### 41. Entire Contract

This Contract constitutes the entire Contract and understanding between You and Us with respect to its subject matter. This clause 41 operates to the extent permitted by law.

### 42. Electronic Communication

Where the Plan Details stipulate that We will use electronic communication under this Contract (for example, We will provide electronic Bills) then You agree to electronic communication and any reference to 'notice' in this Contract may be satisfied by electronic communication.

### 43. Network Operator

We supply gas to You and We may or may not own or operate the Network. The Network is operated by the Network Operator who delivers the gas through the Network to the Supply Address for Us. Where We do not own the Network, We:

- (a) may procure the Network Operator to undertake various actions on Our behalf; and
- (b) cannot control the way in which the Network Operator operates the Network. For example, We cannot control the quality, volume or continuity of gas being supplied through the Network.

As a result, the gas supplied to You:

- (c) may not be free from interruptions or may fluctuate in quality from time to time;
- (d) will be of the quality of gas contained in the Network; and
- (e) may not suit Your specific needs if, for example, You require gas that is free from interruptions or fluctuations in quality.

### 44. Our Contact Details

Postal Address:	PO Box 4184, Myaree Business Centre, WA 6960
Business Address:	Campus Drive (off Murdoch Drive), Murdoch, Western Australia, 6150
Registered Address:	Level 14, Brookfield Place Tower 2, 123 St Georges Terrace PERTH WA 6000
Telephone number:	13 21 80
Email (for home):	nghome@kleenheat.com.au
Email (for business):	ngbusiness@kleenheat.com.au
Website:	www.kleenheat.com.au

