

GDSA Standard Terms and Conditions

Distributor

Tas Gas Networks
(ABN 91 104 499 569)

Version 4

Dated: November 2011

Table of Contents

1.	CONDITIONS PRECEDENT AND CONDITIONS OF SUPPLY.....	3
2.	DISTRIBUTOR’S RIGHTS AND OBLIGATIONS.....	3
3.	END-CONSUMER’S RIGHTS AND OBLIGATIONS.....	5
4.	CHARGES AND PAYMENT AND GST	6
5.	TERM AND RENEWAL.....	8
6.	CHANGES TO THIS AGREEMENT	9
7.	LIMITATIONS ON LIABILITY	10
8.	FORCE MAJEURE	12
9.	CONFIDENTIALITY	12
10.	TERMINATION	13
11.	RESOLVING DISPUTES	14
12.	OWNERSHIP.....	15
13.	GENERAL.....	16
14.	INTERPRETATION AND DEFINITIONS	19
	SCHEDULE 1: PRE-REQUISITES AND CORE REQUIREMENTS FOR THE END-CONSUMER	27
	SCHEDULE 2: PRUDENTIAL REQUIREMENTS	28
	SCHEDULE 3: QUALITY OF SUPPLY.....	30
	SCHEDULE 4: METERING EQUIPMENT AND INFORMATION	33
	SCHEDULE 5: OUTAGE MANAGEMENT	35
	SCHEDULE 6: BILLING AND SETTLEMENT PROCESSES.....	37
	SCHEDULE 7: CHARGES	38

GDSA Standard Terms and Conditions

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 the "Agreement" in this document where the context so requires.

1. CONDITIONS PRECEDENT AND CONDITIONS OF SUPPLY

1.1. Conditions Precedent

The rights and obligations of the Distributor under the Agreement (other than clauses 2.3, 7, 9, 11, 13 and 14) are conditional on:

- a) the satisfactory commissioning of the Network; and
- b) the Distributor being granted a distribution licence, under the Gas Act, for such period and in form and substance and subject to such terms and conditions as are satisfactory to the Distributor under the Gas Act to construct and operate the Network.

1.2. Survival

If the conditions referred to in clause 1.1 are not satisfied or waived on or before [insert end of next Calendar Year] then all rights and obligations under the Agreement other than:

- a) the following clauses of these Standard Terms and Conditions - clause 7 (limitations on liability), clause 9 (confidentiality), clause 11 (resolving disputes), clause 13 (general) and clause 14 (interpretation and definitions); and
- b) rights that accrue before that date;

terminate on that date.

2. DISTRIBUTOR'S RIGHTS AND OBLIGATIONS

2.1. 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 fault-free pursuant to clause 2.1(c).
- c) Distributor will provide the Gas Distribution Services in accordance with:
 - i. Good Industry Practice;
 - ii. applicable laws; and
 - iii. the terms of the Agreement.

2.2. 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 2.2(a) as soon as reasonably practicable once it is satisfied (acting reasonably) that the Disconnection Event had ceased or has been remedied to its satisfaction (as the case may be).

GDSA Standard Terms and Conditions

- 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 2.2(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 2.2(b) as soon as commercially reasonably practicable once it is satisfied (acting reasonably) that it is appropriate to do so.

2.3. Rights of Access

- a) The End-Consumer grants the Distributor Rights of Access to the End-Consumer's Premises. In exercising its Rights of Access the Distributor will:
 - i. where practicable, give the End-Consumer reasonable 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 ensuring any damage to property is restored to original condition;
 - ii. procure that its representatives carry appropriate identification to identify themselves as the Distributor's employees or agents;
 - iii. show respect for and cause as little inconvenience to the End-Consumer as is practicable; and
 - iv. observe the End-Consumer's reasonable practices and procedures for entering and occupying the End-Consumer's Premises.
- b) The Rights of Access 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, expiry or cessation of the Agreement to enable the Distributor to gain access to and remove any of the Distributor's Equipment at the End-Consumer's Premises.

2.4. Distributor will not interfere with Equipment

The Distributor will not act in a way that materially impedes or obstructs the operation of the End-Consumer's Equipment except to the extent that action has to be taken to protect the health and safety of persons or to prevent damage to property or the Network. If the Distributor or the Distributor's contractor materially interferes with the End-Consumer's Equipment, the Distributor will use all reasonable endeavours to immediately inform the End-Consumer.

2.5. 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.

2.6. Easements

If requested by the Distributor the End-Consumer must:

- a) if the End-Consumer owns the End-Consumer's Premises, grant the Distributor an easement or licence to occupy (whichever the Distributor requests) allowing the Distributor to locate, install and access the Distributor's equipment. Such easement or licence to occupy shall be in the form of the Distributor's Standard Easement or Standard Licence; or

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

- b) if the End-Consumer does not own the End-Consumer's Premises, the End-Consumer must procure that the owner of the End-Consumer's Premises grant the Distributor an easement or licence to occupy (whichever the Distributor requests) allowing the Distributor to access the Distributor's Equipment. Such easement or licence to occupy shall be in the form of the Distributor's Standard Easement or Standard Licence; and
- c) if the End-Consumer grants or procures the grant of an easement under clause 2.6(a) or (b) to the Distributor, the End-Consumer must do all acts and things to enable the easement to be recorded on the title to the End-Consumer's Premises.

3. END-CONSUMER'S RIGHTS AND OBLIGATIONS

3.1. End-Consumer's obligations

The End-Consumer will comply with the requirements of the Agreement, and all applicable laws.

3.2. Interference with the Network

The End-Consumer will:

- 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 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 Network of the Points of Connection and determined as necessary by the Distributor to be housed at the End-Consumer's Premises.

3.3. Supply of Information

To enable the Distributor to perform its obligations under:

- a) the Agreement;
- b) any agreement between the Distributor and any Gas Retailer; and
- 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).

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

4. CHARGES AND PAYMENT AND GST

4.1. Charges

The End-Consumer will pay the Distributor:

- a) the Charges (plus GST) in respect of each Point of Connection from the Start Date until the earlier of the Expiry Date and the termination date under an Event of Default;
- b) any relevant Statutory Charges; and
- c) any other amounts due and payable by the End-Consumer under the Agreement.

4.2. Changes to the Charges

- a) The Distributor may change the Charges:
 - i. at any time on 30 days' notice to the End-Consumer to reflect any Statutory Charge that may be imposed or any increase or decrease in any Statutory Charge; and
 - ii. once every 12 months on 30 days' notice to the End-Consumer to reflect any increase in CPI, in accordance with Schedule 7: Charges.
- 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.
- c) Any change to the Charges under clause 4.2(a) above will be final and binding as between the parties and will not be the subject of the dispute resolution process under clause 11.

4.3. Invoicing and Payment

The Distributor will invoice the End-Consumer for:

- a) the Charges (plus GST); and
- b) any other amounts due and payable by the End-Consumer under the Agreement.

The End-Consumer will pay the invoice, in accordance with Schedule 6.

Neither the Distributor nor the End-Consumer may initiate a dispute in relation to any invoice after 12 months from the date of the invoice.

4.4. Distributor's Rights on End-Consumer's Failure to Pay

- a) Without limiting any other right of the Distributor under the Agreement or otherwise, if the End-Consumer fails to pay any amount set out in any invoice issued by the Distributor pursuant to clause 4.3 on the due date for payment, the End-Consumer will be in default under the Agreement, unless considered by the End-Consumer acting reasonably to be a Manifest Error 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.

GDSA Standard Terms and Conditions

- ii. If the amount remains unpaid after 10 working days' notice by the Distributor to the End-Consumer, the Distributor may call for payment under any Credit Support (as referenced in Schedule 2), but only to the extent payment is due.
- b) The charging of Default Interest under clause 4.4(a) will in no way imply the granting of an extension of credit by the party to whom the interest is payable.
- c) If the End-Consumer disputes the amount of any invoice, it must pay the whole amount of the invoice and then initiate a dispute with the Distributor using the procedure set out in clause 11.
- d) The Distributor may at any time issue an adjustment to an invoice or a new invoice where the End-Consumer has been under charged, over charged or not charged, by either crediting the End-Consumer for any overcharging or invoicing the End-Consumer for under or non-charging. An invoice issued under this clause (d) must be paid within the same time and is subject to the same conditions as if it were an invoice issued under clause 4.3.

4.5. Definitions and Interpretation

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

4.6. GST Payable in Addition to other Consideration

- a) Unless otherwise expressly provided, all amounts referred to in the Agreement have been agreed without regard to GST that is, on a GST exclusive basis.
- b) A recipient of a taxable supply made under the Agreement must pay to the Supplier, in addition to the consideration payable or to be provided for the taxable supply, any GST for which the Supplier is liable in respect of the taxable supply.
- c) The recipient must pay the GST to the Supplier:
 - i. if there is a due date for the consideration for the taxable supply, either on that date or within 14 days of receiving a tax invoice for the taxable supply, whichever is the later; or
 - ii. if there is no due date, within 14 days of receiving a tax invoice for the taxable supply.

4.7. Reimbursements

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

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

4.8. Tax Invoice

Each party making a taxable supply under the Agreement must issue a tax invoice to the other party for each taxable supply:

- a) if the Agreement provides that an invoice must be issued in respect of the supply on the date the invoice is required to be issued; or
- b) in any other case, within 14 days of making the taxable supply.

4.9. Adjustment Note

Each party must issue an adjustment note to the other party as soon as it becomes aware of an adjustment event relating to a taxable supply by it under this Agreement.

4.10. Indemnities

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

4.11. GST-free Supplies and Valuation of Consideration

- a) Notwithstanding any provision in the Agreement to the contrary the Distributor may, in its absolute discretion determine, for GST purposes:
 - i. the extent to which supplies made under the Agreement by either the Distributor or the End-Consumer are taxable, GST free or input taxed supplies; and
 - ii. the value of the consideration paid or to be provided for each supply made by either the Distributor or the End-Consumer and the allocation of such consideration among any taxable, GST free and input taxed supplies.
- b) The Distributor may require the End-Consumer to reissue a tax invoice previously issued, or to issue an adjustment note, where the Distributor considers that the amount of GST on a taxable supply has been calculated incorrectly by the End-Consumer.
- c) Where the End-Consumer disagrees with a determination by the Distributor under clause 4.11(a) and (b) in so far as it affects a supply by the End-Consumer it may at its own cost make an application in a form agreed by the Distributor and the End-Consumer to obtain a private binding ruling from the Australian Taxation Office as to the correct GST treatment and both parties will agree to be bound by that Ruling so long as it remains current and binding.

5. TERM AND RENEWAL

- 5.1. The Agreement will begin on the Commencement Date and will expire on the Expiry Date unless otherwise terminated in accordance with the Agreement.
- 5.2. 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

GDSA Standard Terms and Conditions

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.

- 5.3.** If agreement under clause 5.2 is not reached by the Expiry Date:
- 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;
 - c) the Distributor may disconnect all or any of the Points of Connection from the Network and may remove any of the Distributor's Equipment at the End-Consumer's Premises;
 - d) the Distributor may cease to provide Gas Distribution Services in respect of those Points of Connection; and
 - e) the End-Consumer will provide to the Distributor all information relating to the consumption of Gas at the End- Consumer's Point of Connection that the Distributor may reasonably require in order to determine the Charges outstanding at the time of termination.

6. CHANGES TO THIS AGREEMENT

6.1. Schedules 3-6

The Distributor will be entitled to amend schedules 3-6, and any terms defined in the Glossary which are used only in those schedules, providing the proposed amendment is in accordance with Good Industry Practice, by giving the End-Consumer not less than 30 days' notice. The End-Consumer may refer any amendment proposed by the Distributor to dispute resolution where such amendment will have a material adverse effect on the rights and entitlements which accrue for the benefit of the End-Consumer under this Agreement.

6.2. Other Provisions

The Distributor will be entitled to amend any other provision of the Agreement not covered by clause 6.1, by giving the End-Consumer not less than 30 days' notice:

- a) if the Distributor and the End-Consumer agree to the amendment; or
- b) to the extent necessary to reflect the mandatory regulation or codes of any industry association or body to which both the Distributor and Gas Retailers are members or signatories at the relevant time; or
- c) if the amendment is required to reflect any change in the law (including, without limitation, any change in the Gas Codes, Gas Regulations or Gas Standards).

6.3. Exception

The Distributor acting reasonably will be entitled to amend any provision of the Agreement where the amendment has no effect on the contractual undertakings of the parties (for example terminology changes to accord with new industry classifications or definitions), by written notice to the End-Consumer and nothing in clauses 6.1 or 6.2 will apply to any such amendment.

GDSA Standard Terms and Conditions

7. LIMITATIONS ON LIABILITY

7.1. Scope of Liability

- a) Subject to the *Competition and Consumer Act 2010* (Cth) and the express provisions of the Agreement, all warranties, terms and conditions in relation to the provision of the Gas Distribution Services, or 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 liability of the Distributor to the End-Consumer under the Agreement or otherwise arising from the relationship between them will be for direct loss or damage to the physical property of the End-Consumer where the damage has been caused by the Distributor's breach of this Agreement, negligence or failure to use Good Industry Practice.
- c) The Distributor will not be liable for:
 - i. any failure to convey Gas arising from the failure of the End-Consumer or other person to observe or comply with the requirements of Good Industry Practice;
 - ii. any failure to convey Gas arising from a failure or reduction of injection or supply of Gas into the Network;
 - iii. any failure to convey Gas arising from any defect or abnormal conditions in or about the End-Consumer's Premises;
 - iv. any failure to convey Gas as a result of action by the Distributor in accordance with the Agreement;
 - v. any act or omission of any Transmission System Operator;
 - vi. Non-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas entering the Network unless the Distributor has previously agreed to accept Non-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas;
 - vii. Any damages or other liability for failure to convey Gas through the Network if the failure arises out of any accident or cause beyond Distributor's control; or
 - viii. Payment for Gas or Unaccounted For Gas.

Nothing in this clause 7.1(c) limits the generality of clauses 7.1(b), 7.1(e) and 7.1(f).

- d) The End-Consumer will not be liable for:
 - i. any failure to perform any obligation pursuant to the Agreement caused by the Distributor's failure to comply with the same; or
 - ii. any failure to perform any obligation pursuant to the Agreement directly caused by any defect or abnormal conditions in the Network.
- e) For the avoidance of doubt and without limiting any other provision of the Agreement, except as provided in clause 7.3, neither the Distributor nor the End-Consumer 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;

GDSA Standard Terms and Conditions

- iii. any loss resulting from liability to any third party except for direct loss or damage to the physical property of any person as set out in clause 7.1(b); or
 - iv. any loss resulting from loss or corruption of or damage to any electronically-stored or electronically-transmitted data or software.
- f) Except as provided in clauses 7.1(b) and 7.3, the Distributor's liability to the End-Consumer and the End-Consumer's liability to the Distributor, whether in tort (including negligence), contract, breach of statutory duty, equity or otherwise arising from the relationship between them and of any nature whatsoever is excluded to the fullest extent permitted by law.
- g) Nothing in the Agreement varies or excludes the operation of section 42 of the Gas Act 2000 (Tas).

7.2. Quantum of Liability

Except as provided in this clause 7 the maximum total liability of the Distributor to the End-Consumer and of the End-Consumer to the Distributor under the Agreement or otherwise arising from the relationship between them will be:

- a) subject to clause 7.2(b), in respect of a single event or series of events arising from the same event or circumstance, for each Point of Connection, the lesser of the Single Event Liability Amount and the amount of the loss or damage suffered; and
- b) in respect of events or circumstances occurring in any consecutive period of 365 days, for all Points of Connection the lesser of the Annual Liability Amount and the loss or damage suffered.

7.3. 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 that claim arises from or could not have been made but for:
 - i. any breach by the End-Consumer of its obligations under the Agreement;
 - ii. the disconnection of the End-Consumer's Premises in accordance with the Agreement;
 - iii. the termination of the Agreement pursuant to a notice by the End-Consumer;
 - iv. 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
 - v. any action undertaken by the Distributor under or in connection with the Agreement at the request of the End-Consumer; and
- b) any recovery activity in respect of any unpaid Charges or interest payable under this agreement.

GDSA Standard Terms and Conditions

7.4. The rights of indemnity set out in this clause 7 are in addition to any other right that a party may have to be indemnified by the other party in any circumstances whatsoever and whether by statute, in law, equity or otherwise, and the rights of indemnity in this clause 7 do not prejudice any such rights of indemnity in any manner whatsoever.

7.5. The benefits of this clause 7 are intended to extend to the Distributor's and the End-Consumer's Representatives and to be enforceable by them, but can be varied without their consent.

8. FORCE MAJEURE

8.1. Notice and Suspension of Obligations

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

- a) that party must immediately give the other prompt 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 it; and
- b) the obligations under the Agreement of the party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

8.2. 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.

9. CONFIDENTIALITY

9.1. Each party will keep confidential all Confidential Information provided by the other party and will not:

- a) disclose any of that Confidential Information to any other person; or
- b) use any of the Confidential Information for any purpose other than to give effect to that party's rights or obligations under this agreement, any agreement with a Gas Retailer or any agreement with the Transmission System Operator;

except as provided in clause 9.2.

9.2. Clause 9.1 does not apply to the disclosure of Confidential 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 9.1;
- b) where disclosure is expressly permitted under the Agreement or with the prior written consent of the party that supplied the Confidential Information;
- c) where disclosure is required by law or the requirements of any stock exchange;

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

- d) where disclosure is required in connection with any legal proceedings, mediation or arbitration relating to the Agreement; and
- e) where the Confidential Information is generally and publicly available other than as a result of a breach of confidence by the party receiving the information.

9.3. Each party will ensure that it is aware of all of its obligations under Applicable Privacy Laws and will at all times comply with their requirements.

10. TERMINATION

10.1. The Agreement will terminate on the earlier of:

- a) the day after notice is given by the Distributor to the End-Consumer terminating the Agreement for reason of an Event of Default occurring in relation to the End-Consumer;
- b) 30 days after notice is given by the End-Consumer to the Distributor terminating the Agreement for reason of an Event of Default occurring in relation to the Gas Distribution Services so long that the Event of Default is not subject to the procedure set out in clause 11 or 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 the Agreement for the reason that performance of any material provision of the Agreement by either party has to a material extent become illegal and the parties acting reasonably agree that it is not practicable for the Agreement to continue;
- d) the 11th working day after notice is given by either party to the other terminating the Agreement for the reason that an event of Force Majeure, which has resulted in the party's failure to perform a material obligation under the Agreement, is of such magnitude or duration that it is impracticable or unreasonable for the party giving notice to remain bound by its obligations under the Agreement;
- e) the Expiry Date; or

the day appointed for that purpose in any agreement between the parties.

10.2. Upon termination of the 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:
 - i. the Distributor may disconnect all or any of the Points of Connection from the Network and may remove any of the Distributor's Equipment at the End-Consumer's premises; and
 - ii. 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.

GDSA Standard Terms and Conditions

- 10.3. Where the Distributor disconnects any Point of Connection pursuant to clause 10.2(b), the costs of disconnection will be met by the Distributor except if the parties otherwise agree and except where:
- a) the Agreement has been terminated by the Distributor due to an Event of Default occurring in relation to the End-Consumer;
 - b) the Agreement has been terminated by the End-Consumer otherwise than by agreement between the parties by reason of an Event of Default occurring in relation to the Distributor or the non-performance of the distributor as contemplated in subclauses 10.1(c) and 10.1(d);

in which cases any such disconnection will be at the End-Consumer's cost.

- 10.4. Termination of the Agreement will not operate as a waiver of any breach of the 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 10.4 and clauses 2.3(b), 7, 9, 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.

11. RESOLVING DISPUTES

- 11.1. The parties intend that any dispute or differences between them concerning the Agreement will be resolved amicably by good faith discussion.
- 11.2. Where any dispute or difference arises between the parties concerning the Agreement, no party may commence any proceedings unless that party has complied with the procedures set out in this clause 11.
- 11.3. If any dispute or difference arises between the parties concerning the Agreement, either party may give notice to the other party. If the dispute or difference is not resolved by discussion between operational staff within 20 working days of notice being given, the matter is to be referred to the Chief Executives of the parties for resolution.
- 11.4. 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.
- 11.5. 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.
- 11.6. Each of the parties will appoint a representative who will have authority to reach an agreed solution and effect settlement.
- 11.7. 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.

GDSA Standard Terms and Conditions

- 11.8. 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.
- 11.9. Any decision or recommendation of the mediator will not be binding on the parties in respect of any matters other than the conduct of the mediation.
- 11.10. 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.
- 11.11. If the difference is not resolved through mediation within 60 days of the appointment of a mediator, the matter will be referred to arbitration under the Commercial Arbitration Act 1986 before a sole arbitrator and in relation to any such arbitration, the following provisions will apply:
- 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;
 - d) the arbitrator will not appoint any expert to advise except with the written consent of both parties.
- 11.12. Nothing in this clause 11 will preclude either party from taking immediate steps to seek urgent injunctive or equitable relief before an appropriate court.

12. OWNERSHIP

12.1. The Network

The Network (including any part of the Network situated on an 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 the 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.

12.2. Gas

- a) The parties acknowledge that gas injected into the Network cannot be identified as the property of any person and that for the purposes of the Agreement gas is deemed to be the property of all the Gas Retailers trading on that Network.
- b) Except as provided in this Agreement, as between the Distributor and the End-Consumer:
 - i. risk in any gas remains at all times with the End-Consumer; and
 - ii. the End-Consumer accepts the risk of UFG.

12.3. Capacity

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

GDSA Standard Terms and Conditions

13. GENERAL

13.1. Costs

Subject to clause 13.2, each party must pay its own expenses incurred in negotiating and executing the Agreement.

13.2. Indemnity

End-Consumer must indemnify Distributor against and must pay Distributor on demand the amount of any duty that is payable on or in relation to the Agreement and the transactions the Agreement contemplates.

13.3. Warranties

The End-Consumer represents and warrants that:

- a) (**power**) it has full legal capacity and power to:
 - i. own its own property and to carry on its business; and
 - ii. enter into the Agreement and to carry out the transactions that the Agreement contemplates;
- b) (**corporate authority**) it has taken all corporate action that is necessary or desirable to authorise its entry into the Agreement and its carrying out the transactions that the Agreement contemplates;
- c) (**authorisations**) it holds each authorisation that is necessary or desirable to:
 - i. enable it to properly execute the Agreement and to carry out the transactions that the Agreement contemplates;
 - ii. ensure that the 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) (**documents effective**) the 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).

13.4. Acknowledgements

The End-Consumer and the Distributor acknowledge that:

- a) they have executed the Agreement and agreed to take part in the transactions that the Agreement contemplates in reliance on the representations and warranties that are made or repeated in the 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 the Agreement or to exercise any right or perform any obligation under it.

13.5. Amendment to this Agreement

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

“Safety by choice - not by chance”

GDSA Standard Terms and Conditions

13.6. Partial Invalidity

The provisions of the 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 10.1(c), the illegality, invalidity or unenforceability of a provision of the 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 the Agreement.

13.7. Inconsistency with Applicable Gas Laws

If there is any inconsistency between a party's rights and obligations under the Agreement and its obligations or rights under any applicable law, then its rights and obligations under the applicable law will prevail to the extent of the inconsistency.

13.8. Assignment and Sub-contracting

- a) The Distributor may sub-contract any of its obligations under the Agreement but will remain liable in accordance with the Agreement for the sub-contractor's default. The Distributor may assign its rights and obligations under the Agreement without the consent of the End-Consumer.
- 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 the obligations of the End-Consumer under the Agreement and takes an assignment of the Agreement with effect from the time of sale, unless the Distributor withholds its consent to such assignment which consent will not be unreasonably withheld. In any other circumstance, the End-Consumer may not assign the Agreement without the prior written consent of the Distributor, which consent will not be unreasonably withheld.

13.9. Entire Arrangement

The Agreement and any document expressly incorporated into the Agreement:

- a) contains all terms of the arrangement between the parties with respect to the subject matter of the Agreement and
- b) supersedes and extinguishes all prior agreements, discussions and arrangements between the parties with respect to the subject matter of the 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).

13.10. No Implied Terms

All terms and conditions relating to the subject matter of the 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 the Agreement.

13.11. Non-waiver

- a) Nothing in the Agreement will be considered to be waived by either party except when such waiver is given in writing.
- b) Failure or omission by a party at any time to enforce or require strict or timely compliance with any provision of the Agreement will not affect or impair that provision

GDSA Standard Terms and Conditions

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.

13.12. No Third Party Rights

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

13.13. 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 the Agreement.

13.14. Notices

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

13.15. Deemed Delivery

Any notice or document will be deemed to be duly given or made if:

- a) delivered by hand, when so delivered;
- b) sent by facsimile or e-mail, when the person effecting the transmission receives an electronic recorded acknowledgement that the facsimile or e-mail has been delivered; or
- c) sent by post, on the fifth working day following posting.

13.16. Relationship

Nothing in the 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.

13.17. Governing Law

The 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.

GDSA Standard Terms and Conditions

14. INTERPRETATION AND DEFINITIONS

14.1. Interpretation

In this Agreement:

- a) words beginning with capital letters are to be interpreted with reference to the definitions contained in the Glossary;
- b) references to time are expressed on a 24-hour clock basis in State of Tasmania Standard Time or State of Tasmania Daylight Time, whichever is in force, and references to a month or a year are references to a calendar month or year;
- c) the singular includes the plural and vice versa;
- d) references to “including” and other similar words are not to be treated as words of limitation;
- e) references to either of the parties includes a reference to that party’s successors and permitted assigns;
- f) a reference to a “person” includes reference to a natural person, corporation sole, a company or other body corporate, an unincorporated body of persons, a statutory body, and an instrument of the Crown;
- g) a reference to “working day” means any day of the week other than a Saturday, Sunday, or statutory holiday in the localities of the parties’ street addresses for service of notices in accordance with clause 13.14;
- h) where the Agreement requires anything to be done on a day which is not a working day, the obligation to do that thing will be satisfied if it is done on the next succeeding working day;
- i) a reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations and includes any statutory instruments, regulations and orders issued under any such enactment or regulations;
- j) headings are for convenience only and will not affect interpretation;
- k) a reference to “written” or “in writing” includes all modes of presenting or reproducing words, figures and symbols in a tangible and permanently visible form and includes electronic transmission;
- l) unless otherwise stated, references in these Standard Terms to clauses and schedules are references to clauses and schedules of these Standard Terms and a reference in a Schedule to a clause is a reference to a clause in that Schedule;
- m) references in the GDSA to clauses are references to clauses of the GDSA unless otherwise stated; and
- n) a reference to \$ or dollars is a reference to the lawful currency of the Commonwealth of Australia and, unless otherwise specified, all amounts payable under the Agreement are to be paid in that currency.

GDSA Standard Terms and Conditions

14.2. Definitions

Acceptable Credit Rating means a credit rating of:

- a) at least BBB (Standard & Poors Rating Group) or equivalent as applying at the Commencement Date; or
- b) such other credit rating as is acceptable to the Distributor;

Agreement means the agreement between the Distributor and the End-Consumer constituting the GDSA (and incorporating these Standard Terms);

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) either:
 - i. sets out the method of allocation and terms of appointment;
 - ii. requires the parties to be bound by the Reconciliation Code; and
 - iii. is expressed to be also for the benefit of each other user of that Injection Point who is party to an Allocation Agreement in respect of that Injection Point (so that the agreement to be bound is enforceable by any such other user); or
- b) in respect of which the Gas Code or Gas Regulation sets out the method of allocation and terms of appointment;

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

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

Applicable Privacy Laws means the Privacy Act 1988 (Cth) and other laws, to the extent that any and each of them are applicable to the performance of the Agreement, or to the collection, use or disclosure of Personal Information by any person for or in connection with the Agreement;

Charges means the charges for Gas Distribution Services and other services provided by the Distributor under the Agreement, calculated in accordance with the charges set out in Schedule 7, and as amended from time to time in accordance with, the Agreement and includes any charges assessed by the Distributor in accordance with Schedule 6;

Commencement Date is as defined in the GDSA;

Confidential Information means all information provided by one party to the other party under or pursuant to the Agreement;

CPI means the Consumer Price Index (Weighted Average of 8 Capital Cities) (or similar or equivalent index if that index ceases to be published);

Credit Support means credit support provided by the End-Consumer in accordance with the credit support requirements of Schedule 2;

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

GDSA Standard Terms and Conditions

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;
- 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, at the request of the End-Consumer's Gas Retailer;

Distributor means Tas Gas Networks Pty Limited 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 an 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 the Agreement, which person must be a Gas Retailer;

End-Consumer's Equipment means the Fittings and Metering Equipment belonging to or used by an End-Consumer or an 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 an End-Consumer;
- b) any land over which an End-Consumer has an easement or right to pass Fittings; and
- c) any Fittings owned by an End-Consumer to convey Energy from the Point of Connection to the locations at which Gas is consumed;

Event of Default means any of the following:

- a) where a party fails to pay the other party any amount due under the Agreement and the default is unremedied within 10 working days after notice has been given of such non-payment by the non-defaulting party;
- b) where there is a material failure of a party's obligations under the Agreement and the failure is not in the process of being remedied to the reasonable satisfaction of the other party within 30 working days after notice from the other party of the failure and request requiring it to be remedied;
- c) where a party fails on three or more occasions in any period of 12 months to meet an obligation under the 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 the Agreement or any agreement with any other person; or
- d) where a party:
 - i. has a receiver or statutory manager appointed to or in respect of the whole or any substantial part of its undertaking, property or assets;
 - ii. is deemed or presumed to be unable to pay its debts as they fall due, becomes or is deemed to be insolvent, or is in fact unable to pay its debts as they fall due, or proposes or makes a compromise,

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

or an arrangement or composition with or for the benefit of its creditors or fails to comply with a statutory demand under section 459 of the Corporations Act 2001; or

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

Expiry Date is as defined in the GDSA;

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

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

- a) acts of God;
- b) strikes, lockouts, or other industrial disturbances;
- c) acts of a public enemy, declared or undeclared war, threats of war, terrorist acts, blockades, revolution, riots, insurrection, civil commotion, public demonstrations, sabotage, acts of vandalism, epidemics or disease;
- d) acts of animals, lightning, fire, storms, floods, earthquakes, landslides, washouts, landslips, accumulation of snow or ice, lack of water arising from weather or environmental restrictions, geomagnetically induced currents;
- e) lack of adequate fuel resources, accidental collisions, explosions, acts of aircraft, motor vehicles or trains, faults or failures of any plant, apparatus or equipment;
- f) the coming into force or expiry of any statute or exercise of a statutory power of decision;
- g) the partial or entire failure of supply or availability of gas to the Network, or partial or entire failure of the Network; and
- h) the partial or entire failure of gas supply to the End-Consumer which occurs as a result of the Distributor selecting, at its discretion, the End-Consumer's Points of Connection for discontinuance in response to any event or circumstance referred to in this definition;

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

Gas (or gas) means natural gas which meets the Gas Specification;

Gas Act means the Gas Act 2000;

Gas Codes means the gas codes issued by the Director of Gas under the Gas Act, as amended or replaced from time to time;

Gas Distribution Services means the services defined as Gas Distribution Services in the GDSA;

Gas Distribution Services Agreement means the Agreement between the Distributor and the End-Consumer under which the Distributor provides Gas Distribution Services to nominated Points of Connection at nominated Sites;

Gas Measurement Standard means NZS 5259: 2004 published by the Standards Association of New Zealand as amended or replaced by an appropriate Australian Standard introduced to be met by metering equipment measuring gas flow;

GDSA Standard Terms and Conditions

Gas Odourisation Standard means NZ5263 published by the Standards Australia as amended or replaced from time to time;

Gas Regulations means the regulations made and in force under the Gas Act;

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 Specification for Reticulated 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 Act 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 means the Gas Distribution Services Agreement signed by the Distributor and the End-Consumer that incorporates these Standard Terms;

Glossary means clause 14.2 which contains definitions of capitalised terms used in the Agreement as amended from time to time in accordance with this Agreement;

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

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

GST means goods and services tax payable pursuant to the A New Tax System (Goods and Services) Act 1999 or any other tax, duty or impost imposed on the provision of services of the kind provided under the Agreement from time to time;

GST Law means the "A New Tax System (Goods and Services) Act 1999" and any other statute or regulation imposing any GST;

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, on any given day, the rate (expressed as a percentage per annum and rounded up to the nearest fourth decimal place) displayed on Reuters' screen page BBSY (or its successor page) at or about 10.45 a.m. on that day as the bid rate for three month bank accepted bills of exchange or, if no such rate is displayed or that page is not available, the average (expressed as a percentage per annum and rounded up to the nearest fourth decimal place) of the bid rates for three-month bank accepted bills of exchange quoted at or about 10.45 a.m. on that day by each of the entities listed on that Reuters screen page when the rate was last displayed or, as the case may be, that page was last available;

Interruption Event means any of the following:

- a) 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;
- 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;

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

- e) where insufficient gas is delivered or will be available for delivery to allow the Network to safely operate;
- f) where Non-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas enters the Network unless the Distributor has previously agreed to accept Non-Specification Gas, unodorised, insufficiently odorised or excessively odorised Gas;
- g) where the Maximum Hourly Quantity applicable to a Point of Connection is exceeded;
- h) upon instructions from any Transmission System Operator or as a result of an action by the Transmission System Operator under any agreement between the Distributor and any Transmission System Operator; and
- i) for any other purpose 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;

Loss Factors means the factors which when applied to quantities measured or calculated as having been delivered to Points of Connection apportion Losses as determined from time to time by the Distributor;

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;

Minimum Annual Variable Charge is the amount (if any) calculated in accordance with clause 2.3 Schedule 7.

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

Network means a "Distribution System" (as defined in the Gas Act) 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 and as set out in the GDSA;

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

GDSA Standard Terms and Conditions

Point of Connection means in respect of each End-Consumer the point where gas leaves the Network at the Site and enters the End-Consumer's Fittings, as specified in the GDSA

Privacy Act means the Commonwealth Privacy Act 1988;

Reconciliation Code means:

- a) the Gas Code; or
- b) the Gas Regulations; or
- 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;

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

Review Date means each anniversary of the Start Date during the Term;

Rights of Access means rights for the Distributor, its employees, contractors, agents and invitees:

- a) of safe and unobstructed access to and within an End-Consumer's Premises; and
- b) 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 Premises for the safe and secure housing of the Distributor's Equipment which is satisfactory to the Distributor);

for the purposes of:

- i. installing, testing, inspecting, maintaining, repairing, replacing, operating, reading or removing any of the Distributor's Equipment at or from the End-Consumer's Premises;
- ii. ascertaining the cause of any interference to the quality of services being provided by the Distributor to any person;
- iii. inspecting the End-Consumer's Equipment or any Metering Equipment to assess compliance with this Agreement;
- iv. preventing danger or damage to persons or property;
- v. connecting or disconnecting the supply of Gas to any Point of Connection; or
- vi. for any purpose related to such activities or to the Distributor's rights, benefits or obligations under or in relation to this Agreement;

Schedule means a Schedule attached to the 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 Easement means the Distributor's standard form of easement;

Standard Licence means the Distributors standard form of licence to occupy;

GDSA Standard Terms and Conditions

Standard Terms means these Standard Terms and Conditions of Gas Distribution Services (Version 4 dated November 2011), as amended from time to time;

Statutory Charge means any recurring or non-recurring charge, tax, impost, rate, levy, cost, fee or payment payable or paid by the Distributor to any Governmental Authority or to any other person to satisfy any obligation under a law which arises in connection with the Distributor's business or any assets used in connection with the services provided under the Agreement including the cost of acquiring permits, licences or units or otherwise satisfying obligations arising under an emissions trading scheme or scheme serving an equivalent purpose or otherwise dealing with the emissions of greenhouse gases (but not including GST or income tax. This includes a change in the Distributor's cost caused by changes in laws relating to depreciation.)

Start Date is as defined in the GDSA;

Term means the period between the Start 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;

Unaccounted For Gas or **UFG** has the meaning set out in the definition of Losses, as applied to gas.

SCHEDULE 1: 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:

1. satisfy the Prudential Requirements in Schedule 2;
2. 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;
3. 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 End-Consumer's Premises; and
4. 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:
 - a) an agreement for use of the Network with the Distributor;
 - b) a contract with the Transmission System Operator; and
 - c) the Reconciliation Code (unless the Reconciliation Code is made and in force as a Gas Code or a Gas Regulation).

SCHEDULE 2: 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 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 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 2.

2. CREDIT SUPPORT

2.1 Credit Support means that the End-Consumer must provide:

a) a guarantee:

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:

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) a cash bond:

a cash bond that is in Australian dollars equal to the Distributor's reasonable estimate of one-quarter of the annual Charges (inclusive of GST) payable by the End-Consumer; or

d) other suitable security approved by the Distributor:

such other security that the Distributor (acting reasonably) may require.

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

2.3 Where the End-Consumer elects to provide a cash bond pursuant to clause 2.1:

a) the Distributor will pay the End-Consumer interest, at the Interest Rate, on the amount of the cash bond, with interest to accrue daily and capitalised every 30 days and added to the value of the cash bond; and

b) the End-Consumer may request a review of the amount of the cash bond on a quarterly basis and if the Distributor determines that the value of the cash bond exceeds the Distributor's reasonable estimate of one-sixth of the annual Charges (inclusive of GST) payable by the End-Consumer, then the Distributor will refund the excess to the End-Consumer.

2.4 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 will be notified to

GDSA Standard Terms and Conditions

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

- a) in accordance with the Agreement, 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 being given notice from the Distributor, 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.

4. REPLACEMENT CREDIT SUPPORT

4.1 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 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 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 that reflects the additional risk that the Distributor must bear. This additional fee per month will be one-twelfth of the Interest Rate, 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.

SCHEDULE 3: 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 being received into the Network at the relevant 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, the End-Consumer will indemnify the Distributor against any costs, damage, loss or expense suffered or incurred by it as a result (whether directly or indirectly) of the Maximum Hourly Quantity having been exceeded.
- 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
if the Distributor wishes and advises the End-Consumer accordingly;
 - ii. 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.

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

GDSA Standard Terms and Conditions

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 that 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 that 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 reserves the right to 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 Non-Specification Gas

- a) The Distributor will not be obliged to accept delivery of any Non-Specification Gas without the prior written approval of all retailers on the Network who would be potentially affected by the Non-Specification Gas.
- b) If the Distributor agrees to accept Non-Specification Gas, the Distributor reserves the right to revoke any such acceptance at any time for any reason and to refuse receipt of such Non-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.
- b) In the event that the Distributor agrees, or is deemed to have agreed, to accept Non-Specification Gas for delivery to the End-Consumer:
 - i. the Distributor may, at its discretion, deliver to the Points of Connection gas having the same or higher specification than the specifications of the Non-Specification Gas accepted by the Distributor at the Point of Injection; and
 - ii. the End-Consumer will indemnify the Distributor against any liabilities to other persons as a consequence of Non-Specification Gas being conveyed in the Network.

“Safety by choice - not by chance”

GDSA Standard Terms and Conditions

- c) If the Distributor reasonably believes that Non-Specification Gas is or is likely to be delivered into the Network the Distributor may, unless it has agreed to accept such Non-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 Non-Specification Gas into the Injection Point.

1.9 Odourisation

The End-Consumer warrants that it has contracted for the supply of Gas that will, upon delivery to the Injection Point, be odourised to Gas Odourisation Standard standards, as updated from time to time. Subject to adequately odourised gas being delivered 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.

1.10 Unodorised, Insufficiently Odourised or Excessively Odourised Gas

If gas received into a Network on behalf of the End-Consumer is unodorised, insufficiently odourised or excessively odourised to Gas Odourisation Standard requirements, the End-Consumer will indemnify the Distributor for all costs, damage, loss or expense suffered as a result thereof including (without limitation) any costs of testing and supplementary odourisation at the Point of Connection.

2. Obligations to notify

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

SCHEDULE 4: 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 2.3 and the End-Consumer granting (or owner of the End-Consumer Premises granting) to the Distributor an easement or licence to occupy as set out in clause 2.6, 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 costs, 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. The design and installation of this equipment will be such that it does not interfere with the Distributor's Metering Equipment and will be to the standards reasonably required and notified by the Distributor.

2.4 Flow Limiting Devices

The Distributor may require the End-Consumer to install flow limiting devices in relation to any Point of Connection where a lower capacity is requested by the End-Consumer for a Point of Connection that has Metering Equipment with a maximum capacity in excess of the maximum capacity requested by the End Consumer. The installation costs of the flow limiting device are payable by the End-Consumer.

GDSA Standard Terms and Conditions

2.5 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.

2.6 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. If, however, the End-Consumer or the Distributor wishes to dispute the accuracy of the Metering Equipment, written notice must be given to the other party.
- b) In the event notice under clause 2.6(a) 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.
 - 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.

SCHEDULE 5: OUTAGE MANAGEMENT

1. INTRODUCTION

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

2. COMMUNICATION OF PLANNED OUTAGES

2.1 Interface with the Distributor:

- 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 ON A GAS NETWORK

- 3.1 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 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, and take into account the plan developed by the Transmission System Operator ("Gas Contingency Plan").

- 3.3 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.

GDSA Standard Terms and Conditions

- 3.4** 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** 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 End-Consumers' Equipment including the re-lighting of pilots. Where the emergency has resulted from an incident on the Network, the Distributor will meet the costs of restoring supply to End-Consumers' Equipment including the re-lighting of pilots. Where the emergency has resulted from an incident upstream of the Network, the costs of restoring supply to the End-Consumers' Equipment including the re-lighting of the pilots will not be the responsibility of the Distributor.
- 3.6** In the event of a major partial loss of gas supply it may become necessary to implement load shedding on the Network. In order to manage that event, the Distributor will develop and maintain a load shedding plan.
- 3.7** Where requested, the Distributor will provide to the End-Consumer the load shedding plan.
- 3.8** 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.

SCHEDULE 6: BILLING AND SETTLEMENT PROCESSES

1. BILLING

1.1 Each month, the Distributor will calculate the Charges payable for the previous month and will send an invoice 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;

to the End-Consumer by the 9th working day of the month.

1.2 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 Charges for the previous month.

1.3 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;

2. PAYMENT

The End-Consumer must pay the full amount of any invoice sent during the current month on or before 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 due date for payment will be extended by one working day for each working day that the invoice is late. 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 2.1, "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, but does not include amounts deemed by the End Consumer acting reasonably to be a Manifest Error.

3. WASH-UPS

Where the Distributor has estimated the End-Consumer's Charges and complete and accurate consumption information is available after the due date for payment, 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.

GDSA Standard Terms and Conditions

SCHEDULE 7: CHARGES

1. INTRODUCTION

- 1.1 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 The Charges do not cover:
- a) The cost of Gas or Non-Specification Gas itself;
 - 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 (TOU) by the End-Consumer's Gas Retailer; or
 - e) Reconciliation/Allocation Services.
- 1.3 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 **Fixed Monthly Charge:** The Fixed Monthly Charge for each Point of Connection as at the Commencement Date is as specified in the GDSA.
- 2.2 **Variable Charge:** The End-Consumer will be subject to 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.
- 2.3 **Minimum Annual Variable Charge:** If, on each anniversary of the Start 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 Minimum Annual Quantity (MAQ) then the End Consumer must pay the Gas Distributor, an amount 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 a Year.

VCY = the Variable charge that applies during that Year adjusted by CPI in accordance with clause 3.1 of Schedule 7.

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

Year = each 12 month period from the annual anniversary of the Start Date period.

3. CPI ADJUSTMENT

- 3.1 For the year commencing one year after the Start Date and each year thereafter, the Fixed Monthly Charge and the Variable Charge Rate may be adjusted by CPI in accordance with clause 4.2(b) pursuant to the following formula:

$$a \times (100 + b) / 100$$

"Safety by choice - not by chance"

GDSA Standard Terms and Conditions

where:

a = for the second year of the Agreement, the dollar amount of the Fixed Monthly Charge or the Variable Charge Rate specified in the GDSA and for the third and subsequent years of the Agreement, the aforesaid dollar amount as adjusted as at the commencement of the preceding year; and

b = the percentage change in CPI in the preceding year (i.e., the year ending immediately prior to the Review Date) where the percentage change in CPI is calculated as follows:

$$b = 100 \times (CPI_n - CPI_{n-1}) / CPI_{n-1}$$

where:

CPI_n = CPI for the quarter ending immediately prior to the Review Date;

CPI_{n-1} = CPI for the quarter ending immediately prior to the date that is 12 months prior to the Review Date;

3.2 By way of example, if:

- a) the percentage change in CPI was constant at 3.00% during the Term;
- b) the Fixed Monthly Charge for the first year of the Term was \$21,300; and
- c) the Variable Charge Rate for the first year of the Term was \$1.30/GJ;

then:

- d) the Fixed Monthly Charge for each Point of Connection for each year of the Term would be (rounded to two decimal places):
 - i. Year 1 Fixed Monthly Charge: \$21,300.00
 - ii. Year 2 Fixed Monthly Charge: \$21,939.00
 - iii. Year 3 Fixed Monthly Charge: \$22,597.17
 - iv. Year 4 Fixed Monthly Charge: \$23,275.09
 - v. Year 5 Fixed Monthly Charge: \$23,973.34
- e) the Variable Charge Rate for each Point of Connection for each year of the Term would be (rounded to two decimal places):
 - i. Year 1 Variable Monthly Charge: \$1.30/GJ
 - ii. Year 2 Variable Monthly Charge: \$1.34/GJ
 - iii. Year 3 Variable Monthly Charge: \$1.38/GJ
 - iv. Year 4 Variable Monthly Charge: \$1.42/GJ
 - v. Year 5 Variable Monthly Charge: \$1.46/GJ.