

Gas Networks

countryenergy

Wagga Wagga Natural Gas Distribution Network

Country Energy Gas Pty Limited ACN: 083 199 839

Terms and Conditions

Appendix 1

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Terms and Conditions

Agreement made at _____ on _____

Parties Country Energy Gas Pty Limited, ACN 083 199 839, a company incorporated in New South Wales and having its registered office at 8 Buller Street, Port Macquarie, NSW 2444 (*Country Energy Gas*)

[to be inserted, including ABN/ACN], is a corporation established under the [to be inserted] having its registered office at [to be inserted] (the *User*)

Recital

- A. *Country Energy Gas* operates a Gas distribution network at Wagga Wagga (*the Network*) and is engaged in the transportation of Gas using the *Network*.
- B. The *User* has requested access to the *Network* pursuant to the *National Gas Law*, *National Gas Rules* and *National Gas Regulations*.
- C. *Country Energy Gas* has agreed to grant the *User* access to its Wagga Wagga distribution network pursuant to *Country Energy Gas' Access Arrangement* and the *Terms and Conditions* set out in this *Agreement*.

1 Interpretation

Interpretation

- 1.1 In the *Terms and Conditions* of this *Agreement*, where a word or phrase is capitalised and italicised the term has the meaning set out in the *NGL* and *NGR*, unless the word or phrase is defined in the glossary in section 15 of the *Access Arrangement* in which case the word or phrase has the meaning given to that word or phrase in the glossary.
- 1.2 In these *Terms and Conditions* and any *Agreement*, unless the context requires otherwise, a reference:
 - (a) to the singular includes the plural and vice versa;
 - (b) to a gender includes all genders;
 - (c) to a document (including these *Terms or Conditions*, the *Agreement* or a *Regulatory Instrument*) is a reference to that document (including any Appendices, Schedules and Annexure) as amended, consolidated, supplemented, novated or replaced;
 - (d) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
 - (e) to a party means a party to the *Agreement*;

- (f) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with the *Agreement*;
 - (g) to a person (including a party) includes:
 - (i) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or government agency; and
 - (ii) the person's successors, permitted assigns, substitutes, executors and administrators; and
 - (iii) where that person ceases to exist, is reconstituted, renamed or replaced, or where its powers or functions are transferred to another body, a reference to the body which replaces it or which serves substantially the same purpose or has the same powers or functions;
 - (h) to a law:
 - (i) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange; and
 - (ii) is a reference to that law as amended, consolidated, supplemented or replaced; and
 - (iii) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation made under that law;
 - (i) to proceedings includes litigation, arbitration and investigation;
 - (j) to a judgment includes an order, injunction, decree, determination or award of any court or tribunal;
 - (k) to time is to New South Wales time; and
 - (l) the word including or includes means including, but not limited to, or includes, without limitation.
- 1.3 Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- 1.4 Headings are for convenience only and do not affect interpretation.
- 1.5 If a payment or other act must (but for this clause 1) be made or done on a *Day* that is not a *Business Day*, then it must be made or done on the next *Business Day*.
- 1.6 If a period occurs from, after or before a day or the day of an act or event, it excludes that day.
- 1.7 An *Agreement* may not be construed adversely to a party only because that party was responsible for preparing it.
- 1.8 A promise or *Agreement* by two or more persons binds them jointly and individually.
- 1.9 A promise or *Agreement* in favour of two or more persons is for the benefit of them jointly and individually.
- 1.10 A reference to a thing (including, but not limited to, a right) includes any part of that thing.

- 1.11 A reference to a right includes a remedy, power, authority, discretion or benefit.
- 1.12 The *Access Arrangement* prevails to the extent of any inconsistency between the *Terms and Conditions* and the *Access Arrangement*.
- 1.13 *Transportation Services* and all other services (together, the services) will be supplied to the *User*, and the *User* will take those services subject to:
- (a) the *Terms and Conditions* of this *Agreement*, and
 - (b) the obligations imposed under the *Access Arrangement*

2 Compliance with Regulatory Instruments

Regulatory Instruments to take precedence

- 2.1 In the event of any inconsistency between:
- (a) a party's obligations or rights under a *Regulatory Instrument*; and
 - (b) its obligations or rights under the *Agreement*,
- its obligations and rights under the *Regulatory Instrument* shall take precedence to the extent of the inconsistency.

User must comply with Regulatory Instruments

- 2.2 Notwithstanding any other provision of the *Agreement*, the *User* will comply with the *Regulatory Instruments*.

Parties must co-operate

- 2.3 Each party will:
- (a) give the other party all reasonable assistance; and
 - (b) co-operate with the other party,
- so as to allow that other party to comply with any obligations imposed upon that other party under the *Agreement* or by any *Regulatory Instrument*.

Preservation of rights

- 2.4 Nothing in the *Agreement* will limit any right of either party under a *Regulatory Instrument* unless the *Regulatory Instrument* permits that right to be limited by agreement, and the *Agreement* directly or indirectly limits that right.

Waiver of Compliance

- 2.5 If a party has been excused from strict compliance with any aspect of a *Regulatory Instrument* and that non-compliance is, in the reasonable opinion of the party receiving the relief, likely to affect the performance of either party's obligations under the *Agreement*, then that party must notify the other party in writing and provide a copy of any relevant notification from the *Authority* responsible for enforcing that aspect of the *Regulatory Instrument*.

3 Reference Services

Transportation Services

3.1 *Country Energy Gas* will provide, and the *User* will accept, *Contract Transportation Services* and/or *Volume Transportation Services* on the *Terms and Conditions* set out in this *Agreement* and the *Access Arrangement*.

Commencement of Transportation Services

3.2 Subject to section 5.6 (Bonds and Credit Support) of the *Access Agreement*, *Country Energy Gas* will have no responsibility to commence the *Transportation Services* unless *Country Energy Gas* in its sole discretion is satisfied that:

- (a) Each of the *Delivery Points* complies with the *Safety and Operating Plan*; and
- (b) The *User* is entitled to take delivery of an appropriate *Quantity* of *Gas* at the nominated *Receipt Points*; and
- (c) The *Gas* which *Country Energy Gas* is to transport for the *User* conforms to the *Specification for Gas*
- (d) The *User* has met the requirements of clause 5.6 (Bonds and Credit Support) of the *Access Arrangement*.

Provision of Transportation Services

3.3 To avoid doubt, the *Agreement* will not apply in respect of a *Customer* to the extent that and for so long as that *Customer* contracts directly with *Country Energy Gas* for the same *Transportation Services*.

3.4 Subject to the *User* providing or substituting *Credit Support* as required under the *Agreement*, *Country Energy Gas* will provide to the *User* in relation to each *Customer* the *Transportation Services* in accordance with:

- (a) good *Gas* industry practice; and
- (b) the *Terms and Conditions* of the *Agreement*.

3.5 In respect of each *Customer*, the *Agreement* applies:

- (a) from and including the date that the *User* requests (or is deemed under clause 3.6 to have requested) the provision of the *Transportation Services* in respect of the *Customer* (or any later date nominated by the *User* in any such request); and
- (b) subject to paragraph 3.3 and clause 11 (Term and Termination), until and including the earlier of the dates described in clause 3.7.

Deemed request for Transportation Services

3.6 The *User* shall be deemed to have requested *Country Energy Gas* to provide *Transportation Services* in respect of a *Customer* while the *User* is the financially responsible organisation for the *Customer's DPI*.

Cessation of provision of Transportation Services

- 3.7 *Country Energy Gas* shall cease to provide the *Transportation Services* to the *User* in respect of a *Customer* upon the first to occur of:
- (a) the time at which *AEMO* transfers financial responsibility for the *Customer's DPI* from the *User* to another Gas Retailer or to the *Customer* directly;
 - (b) the date agreed between the *User* and *Country Energy Gas* for the purposes of this clause on which the *Customer* ceases to, or ceases to be entitled to, receive *Supply* in respect of that *Delivery Point*, which may or may not include *Disconnection*; or
 - (c) the date on which *Country Energy Gas*, following request by the *User*, removes its *Basic Metering Equipment* relating to the *Customer's Delivery Point*.

Entitlement to refuse Service

- 3.8 Nothing in the *Agreement* requires *Country Energy Gas* to provide *Transportation Services* or to *Supply* in respect of a *Customer's DPI* in circumstances where a *Regulatory Instrument* requires or permits *Country Energy Gas* to refuse to provide *Transportation Services* or *Supply*.
- 3.9 *Country Energy Gas* is not obliged to provide *Transportation Services* if the Gas which the *User* seeks to inject into or withdraw from the *Distribution System*:
- (a) does not meet the *Specifications*; or
 - (b) contains any material or has properties that *Country Energy Gas* reasonably believes may be harmful to the *Distribution System* or to the operation of the *Distribution System*.
- 3.10 *Country Energy Gas* is not obliged to provide the *Transportation Services* if the *User* has not made payment of monies due under the *Agreement*:
- (a) within 5 *Business Days* of receipt of a notice of default issued by *Country Energy Gas* under clause 11.2; and
 - (b) has not issued a *Notice of Dispute* under clause 13.17 in relation to that payment.

Right to suspend or limit delivery

- 3.11 In addition to its right under this *Agreement*, *Country Energy Gas* will have the right to suspend or limit delivery of Gas to a *Delivery Point* in the following circumstances:
- (a) following at least 10 *Business Days* notice in writing from *Country Energy Gas* where the *User* has failed to maintain or operate the *Delivery Point* (including any bulk measuring equipment) in accordance with this *Agreement*, the *NGL* or *NGR* and good pipeline industry practice and the *User* has not within such period rectified any such fault;
 - (b) immediately, in situations of emergency;

- (c) immediately, if in *Country Energy Gas*' reasonable opinion there is a significant risk of serious damage to the *Network*, any associated equipment or any other property whatsoever;
- (d) immediately, if in *Country Energy Gas*' reasonable opinion there is significant risk of injury to any person;
- (e) immediately, if in *Country Energy Gas*' reasonable opinion non-compliance by the *User* could constitute or be deemed by any judicial or regulatory body which has jurisdiction over *Country Energy Gas* to constitute non-compliance by *Country Energy Gas* with any law;
- (f) immediately, if on any *Day* the *User* takes delivery or seeks to withdraw a *Quantity* of *Gas* from a *Delivery Point* in that *Day* which exceeds the Maximum Hourly *Quantity* for that *Delivery Point*; and
- (g) immediately, if the *User* is unable to demonstrate to *Country Energy Gas*' satisfaction that it has arrangements in place to ensure that the *Gas* it requires *Country Energy Gas* to transport conforms to the *Specifications*.

Suspension for Retailer of Last Resort

3.12 The obligations of *Country Energy Gas* under the *Agreement* are suspended for so long as a person other than the *User* is acting as the *Retailer of Last Resort* in respect of the *User* under the *Gas Supply (Natural Gas Retail Competition) Regulation 2001*.

Conditions of supply

- 3.13 The *User* does not (and must not represent to any other person that the *User* or any other person can) acquire any right or title to, or interest in, the *Distribution System* or any part of the *Distribution System* under the *Agreement*.
- 3.14 *Country Energy Gas* does not dedicate any particular portion of the *Distribution System* to the *Transportation Services* provided to the *User*.
- 3.15 *Country Energy Gas* is not responsible for purchasing or arranging the transportation of *Gas* to a *Receipt Point* on behalf of the *User*.
- 3.16 *Country Energy Gas* may co-mingle *Gas* injected into the *Distribution System* by the *User* with *Gas* injected into the *Distribution System* by any other person.
- 3.17 The *User* acknowledges and accepts that the *Gas* delivered to a *Customer* at a *Delivery Point* may not match the quality of the *Gas* injected into the *Distribution System* by the *User*.

The User's obligations/Capacity Management

- 3.18 Unless otherwise agreed in advance with *Country Energy Gas*, the *User* must:
 - (a) to the extent that such matters are within the *User's* reasonable control, take all reasonable actions to ensure that the volume or pressure of *Gas* delivered to a *Receipt Point* does not exceed the physical design capabilities of the *Metering Installation* at that *Receipt Point*, as set out in clause 5.2 of the *Access Arrangement*;
 - (b) pay for any damage caused to the *Distribution System*, where, and to the extent that, the *Distribution System* has been damaged as a result of the failure of the

User to comply with clause 3.18(a). To the extent that any damage caused to the *Distribution System* is attributable to two or more causes, one of which is the failure by the *User* to comply with clause 3.18(a), payment for such damage will be apportioned accordingly;

- (c) ensure that *Gas* injected into the *Distribution System* is odorised. The *User* must immediately notify *Country Energy Gas* upon becoming aware that *Gas* being or to be injected into the *Distribution System* may or will not meet the Specification.
- (d) ensure that each of its *Customers* does not withdraw a *Quantity* of *Gas* at a *Delivery Point* in any hour which exceeds its *Customer MHQ* at that *Delivery Point*.
- (e) The *User* will promptly notify *Country Energy Gas* upon becoming aware of any event or circumstances which could adversely affect the *Network* or *Country Energy Gas*' ability to operate it.

Indemnity

- 3.19 The *User* indemnifies *Country Energy Gas* against any cost, demand, expenses or liability (including liability to third parties) suffered or incurred by *Country Energy Gas* as a consequence of a breach by the *User* of clause 3.18(c).

Title to Gas

- 3.20 At all times, the *User* has title to *Gas* it causes to be injected into the *Distribution System* and the *User* indemnifies *Country Energy Gas* and holds it harmless against any loss, liability, damage, claim, action, proceeding, cost and expense suffered or incurred by or made or brought against *Country Energy Gas* in consequence of any breach by the *User* of this condition.

Custody and control of Gas

- 3.21 Custody and control of *Gas* injected into the *Distribution System* at a *Receipt Point* by the *User* passes to *Country Energy Gas* at that *Receipt Point*.
- 3.22 *Country Energy Gas* ceases to have custody and control of *Gas* when it is withdrawn from the *Distribution System* at a *Delivery Point*.

4 Connection

- 4.1 If the *User* receives a valid and complete request for *Connection* from a prospective *Customer*, the *User* must submit to *Country Energy Gas* a *Network Connection Application* in respect of the prospective *Customer* without delay,
- 4.2 The *User* will provide to *Country Energy Gas* any information reasonably required by *Country Energy Gas* for the purposes of effecting the *Connection*. Without limiting the information required from a *User* under this clause 4.2, such information will include the information described in clause 8.7 (*New Delivery Points*) and clause 8.8 (*Acceptance by Country Energy*).

5 Disconnection and Interruption of Customer

Disconnection and Load Shedding

- 5.1 The *User* acknowledges that in addition to *Country Energy Gas's* rights under clauses 5.5 to 5.12 *Country Energy Gas* may:
- (a) disconnect; or
 - (b) shed load from or Interrupt,
- a *Delivery Point* in an Emergency or in accordance with the *Access Arrangement* and any other applicable *Regulatory Instruments*.
- 5.2 If the *Gas Supply* to the *Distribution System* is threatened, then *Country Energy Gas* will determine the *Quantity of Supply* available from the *Receipt Point* and shed load in accordance with the *Access Arrangement* in order to maintain safe pressure levels. Load shedding will be done on a priority-ranking basis in accordance with section 5.4.1 of the *Access Arrangement* with the aim of achieving the maximum load reduction in the shortest time possible with minimal effect to any plant and/or production processes.
- 5.3 In the event that load shedding is required, *Country Energy Gas* will advise the *User* to tell their *Customers* to shed load. The *User* must obey, and must procure that its *Customers* obey, such directions.
- 5.4 In the event that the *User* fails to implement *Country Energy Gas's* instructions, *Country Energy Gas* may issue instructions to its field services staff to Disconnect the relevant *Delivery Points*.

Disconnection at the request of the User

- 5.5 The *User* may request *Country Energy Gas* to Disconnect a *Customer's Delivery Point* by providing a *Disconnection Request* to *Country Energy Gas*.
- 5.6 *Country Energy Gas* may refuse to Disconnect a *Delivery Point* where *Country Energy Gas* reasonably considers that:
- (a) such *Disconnection* would be detrimental to the health or safety of any person (including the *Customer*) or the security of the *Distribution System*; or
 - (b) the *User* has issued a *Disconnection Request* in breach of the *Regulatory Instruments*.
- 5.7 In the case of clause 5.6(a), *Country Energy Gas* will use reasonable endeavours to remove or mitigate the risk of detriment. In each case under clause 5.6, *Country Energy Gas* must notify the *User* of the reasons for its refusal to Disconnect without delay.
- 5.8 Where *Country Energy Gas* refuses to Disconnect a *Customer* on any of the grounds set out in clause 5.6, the *User* will continue to be liable for the *Charges* in respect of the provision of the *Transportation Services* in respect of the *Customer* and the consumption of *Gas* by the *Customer*.
- 5.9 By providing a *Disconnection Request* to *Country Energy Gas*, the *User* represents and warrants to *Country Energy Gas* that the *User*:

- (a) is entitled to make a request for *Disconnection* under its *Customer Supply Contract* with the *Customer* and under any applicable *Regulatory Instruments*; and
- (b) it has complied with the procedures for *Disconnection* prescribed in that contract and any other procedures under the *Regulatory Instruments*.

5.10 The *User* shall indemnify *Country Energy Gas* against all *Claims* arising from, or incurred by or made or brought against *Country Energy Gas* as a consequence of any *Disconnection* by *Country Energy Gas* of a *Customer* pursuant to a *Disconnection Request*, except to the extent that the *Claim* arises from the negligent or reckless act or omission of *Country Energy Gas* or from any breach or non-observance by *Country Energy Gas* of the *Agreement* or the *Regulatory Instruments*.

Disconnection at the request of a Customer

5.11 If a *Customer* requests *Country Energy Gas* to Disconnect the *Customer*, *Country Energy Gas* must notify the *User* prior to *Disconnection* and Disconnect the *Customer* in accordance with the *Network Code*.

Reconnection or restoration of Supply

5.12 Subject to clause 5.13, *Country Energy Gas* must *Reconnect* and restore *Supply* to the affected *Delivery Point*:

- (a) following *Disconnection*, or load shedding or *Interruption* in accordance with the *Regulatory Instruments*; and
- (b) following *Disconnection* at the request of the *User*, when requested by the *User* in a form reasonably required by *Country Energy Gas*.

5.13 *Country Energy Gas* may refuse to *Reconnect* or restore *Supply* to a *Delivery Point* where *Country Energy Gas* is permitted by the *Regulatory Instruments* to do so or where in *Country Energy Gas*'s opinion it is unsafe to do so.

5.14 The *User* will provide to *Country Energy Gas* any information reasonably required by *Country Energy Gas* in connection with the *Reconnection* or restoration of *Supply* to a *Delivery Point*.

Assistance

5.15 The *User* must give to *Country Energy Gas* any assistance that *Country Energy Gas* reasonably requests in relation to the shedding of load, *Interruption*, *Disconnection* or, *Reconnection* of *Customers* or the restoration of *Supply* to *Customers*.

Deactivation

5.16 If a *Customer* requests *Country Energy Gas* to Deactivate the *Customer's Delivery Point*, *Country Energy Gas* must notify the *User* of the request prior to *Deactivation* of the *Customer*.

5.17 If a *User* receives a request for *Deactivation* from a *Customer*, the *User* must pass that request on to *Country Energy Gas* and *Country Energy Gas* must *Deactivate* the *Customer* in accordance with the *Network Code*.

6 Payment and invoicing for services

Charges

- 6.1 The *User* shall pay the *Charges* to *Country Energy Gas*.
- 6.2 The *User* shall pay *Country Energy Gas* the *Charges* in respect of each *Customer* for the entire period after the *Commencement Date* during which *Country Energy Gas* provides *Transportation Services* to the *User* in respect of the *Customer* in accordance with the *Agreement*.
- 6.3 Subject to clause 6.15, the obligation of the *User* to pay the *Charges* to *Country Energy Gas* will not be affected by any failure of a *Customer* to pay the *User* in respect of the *Transportation Services* under the *Customer Supply Contract*.
- 6.4 The *User* acknowledges and agrees that *Country Energy Gas* will be entitled to render an invoice to the *User* for any *Charges* incurred by or on behalf of the *User* where *Country Energy Gas* has been unable to carry out or complete the relevant *Transportation Services* as a result of any act or omission of the *User*. Any such *Charges* will be invoiced and payable in accordance with this clause 6.

GST

- 6.5 For the purposes of this clause 6.5:
- (a) terms defined in the GST Act have the same meaning in this clause 6.5 unless provided otherwise.
 - (b) Adjustment Note includes any document or record accepted by the Commissioner of Taxation as an adjustment note.
 - (c) GST includes any replacement or subsequent similar tax.
 - (d) GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
 - (e) Tax Invoice includes any document or record accepted by the Commissioner of Taxation as a tax invoice.
- 6.6 If GST is or will be imposed on a taxable supply made under or in connection with the *Agreement*, the supplier may, to the extent that the consideration otherwise provided for that supply under the *Agreement* does not already include an amount in respect of GST on the supply:
- (a) increase the consideration otherwise provided for that *Supply* under the *Agreement* by the amount of that GST; or
 - (b) otherwise recover from the recipient the amount of that GST.
- 6.7 All GST payable shall be paid at the time any payment to which it relates is payable.
- 6.8 The recovery of any amount in respect of GST by the supplier under the *Agreement* is subject to the issuing of the relevant Tax Invoice or Adjustment Note to the recipient.
- 6.9 If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST recovered by the supplier, as appropriate, the supplier:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount recovered; and
 - (b) must refund to the recipient the amount by which the amount recovered exceeds the amount of GST on the supply.
- 6.10 The recipient must pay any fine, penalty or other cost in respect of a failure to pay any amount described in clause 6.6 or 6.9 except to the extent that the fine, penalty or other cost is caused by the supplier's failure to lodge money received from the recipient before the due date for lodgement.
- 6.11 Costs required to be reimbursed or indemnified under the *Agreement* must exclude any amount in respect of GST included in the costs for which an entitlement arises to claim an input tax credit.

Transportation Services – Invoicing, Payment and Interest

- 6.12 *Country Energy Gas* may render invoices no more frequently than twice per month. Subject to clauses 6.13 and 6.16 *Country Energy Gas* will use its best endeavours to render invoices to the *User* in respect of *Transportation Services* on the same *Business Days* of each month or such other invoicing period as agreed between *Country Energy Gas* and the *User*.
- 6.13 *Country Energy Gas* may at any time render invoices for *Transportation Services* provided to the *User* at any time while a person was a *Customer* if the *Transportation Services* were obtained as a result of the *Customer's* or the *User's* fraud or the use of *Gas* otherwise than in accordance with the *Regulatory Instruments*.
- 6.14 Invoices will be in a format determined by *Country Energy Gas*. *Country Energy Gas* will ensure that its invoices will include, without limitation, the following information:
- (a) **(gas received)**: the quantity of *Gas* deemed to be received from the *User* at the *Receipt points* in the billing period;
 - (b) **(gas delivered)**: the quantity of *Gas* delivered to the *User* at each *Deliver Point* in the billing period;
 - (c) **(monthly capacity charge)**: the *Monthly Capacity Charge* payable pursuant to clause 6 of the billing period for each *Delivery Point* to which the *Contract Transportation Service* is provided, as well as the *MDQ* for that *Delivery Point*;
 - (d) **(monthly metering charge)**: the *Monthly Metering Charge* payable pursuant to clause 6 for the billing period for each *Delivery Point* to which the *Contract Transportation Service* is provided;
 - (e) **(volumetric charge)**: the *Volumetric Charge* payable pursuant to clause 6 for the billing period for each *Delivery Point* to which the *Volume Transportation Service* is provided;
 - (f) **(monthly fixed charge)**: the *Monthly Fixed Charge* payable pursuant to clause 6 for the billing period for each *Delivery Point* to which the *Volume Transportation Service* is provided;
 - (g) **(Additional Services charges)**: the number of each *Additional Service* provided during the billing period and the total charge for the billing period for each *Additional Service*;

- (h) **(other amounts):** any other charge payable by the *User* in respect of the billing period;
 - (i) **(other information):** sufficient information as is reasonable to allow the *User*:
 - (i) to assess the accuracy of the *Charges* specified in each invoice; and
 - (ii) to comply with its obligations under the *Regulatory Instruments* in relation to the provision to the *Customer* of information concerning such *Charges*.
- 6.15 Subject to clause 6.25, if *Country Energy Gas* renders an invoice for *Transportation Services* that were provided more than 12 months prior to the date of the invoice, the *User* will not be obliged to pay that invoice to the extent that the *User* is precluded from recovering those costs from the relevant *Customers* by operation of the *Regulatory Instruments*.
- 6.16 The *Charges* for *Reference Services* included in an invoice for *Transportation Services* must only be in relation to *Customers* whose *Meters* were due to be read in the period of the invoice, or in relation to the correction or substitution of previous *Meter Readings* relating to earlier invoicing periods. All other *Charges* for *Transportation Services* will be invoiced after provision of the *Distribution Service* unless otherwise agreed by the parties or required by the *Regulatory Instruments*.
- 6.17 Subject to clause 6.18 and clauses 6.23 to 6.25, an actual *Meter Reading* in respect of a *Customer's Delivery Point* shall be evidence of *Gas Supplied* to a *Customer* and shall be the basis for determining the *Charges*.
- 6.18 *Charges* may be based upon estimated *Meter Readings*. Estimated *Meter Readings* shall be determined by reference to the method set out in the *Regulatory Instruments* or, if there is no such method, by reference to prior billing history or subsequent *Meter Readings* or any other method agreed between the parties.
- 6.19 Where the actual *Meter Reading* becomes available subsequent to the issuing of an invoice based on an estimated *Meter Reading* in accordance with clause 6.18, the *Charge* must be adjusted in accordance with clauses 6.23 to 6.25.
- 6.20 Subject to clauses 6.26 to 6.35 (*Disputed invoices*), the *User* must pay the amount specified in each invoice rendered to it in accordance with the *Agreement* within 10 *Business Days* after the *Day* on which the invoice is received (or deemed to be received) by the *User*.
- 6.21 All payments made under this clause 6.21 shall be made by way of deposit into a bank account nominated by *Country Energy Gas*, or in a manner otherwise agreed between the *User* and *Country Energy Gas*.
- 6.22 If an invoice is not paid in full in accordance with this clause 6.22, the *User* must pay interest on the *Outstanding Amount* (excluding any amount genuinely disputed in accordance with clauses 6.26 to 6.35) from the *Day* that the invoice was due for payment until payment in full of the amount of the invoice plus all accrued interest. Interest will be calculated at the *Default Rate* applicable on the first day of the month in which the invoice was issued and will be capitalised on the first day of each following month and calculated on actual days elapsed and a 365 day year.

Adjustment of invoices

- 6.23 Subject to clause 6.24, an incorrect *Charge*, or the omission of a *Charge*, in an invoice rendered and paid under the *Agreement* must be altered by the party rendering the invoice in a subsequent invoice to rectify the error or omission. Causes of error or omission may include, but are not limited to:
- (a) *Meter tampering or bypass; or*
 - (b) *defective Meters or defective Meter Readings; or*
 - (c) *errors or omissions by AEMO in its provision of data to Country Energy Gas; or*
 - (d) *errors or omissions in the billed Gas consumption of a Customer; or*
 - (e) *differences between estimated Meter Readings or substituted Meter Readings and actual Meter Readings obtained after the invoice is issued; or*
 - (f) *amounts imposed or adjusted by an Authority.*
- 6.24 An adjusted invoice issued under clause 6.23 must include, or be accompanied by, an explanation of the reason why the adjusted invoice is being issued.
- 6.25 An alteration to an invoice to reflect an adjustment under clauses 6.23(b), 6.23(c), 6.23(d) or 6.23(e), must not be made where the *User* is precluded by the *Regulatory Instruments* from recovering the adjusted *Charges* from its *Customers*, except in the case where the incorrect *Charge* arises as a result of an act or omission of the *User* (or its agent) or a *Customer*.

Disputed invoices

- 6.26 If a party in receipt of an invoice (*Disputing Party*) disputes its obligation under the *Agreement* to pay all or part of that invoice (*Disputed Invoice*) it must notify the party which issued the invoice (*Invoicing Party*) not less than 2 *Business Days* before the due date for payment of an invoice under clauses 6.5 to 6.11 (*Notice of Dispute*) and must include in the *Notice of Dispute* its grounds for disputing the *Disputed Invoice* and the amount disputed.
- 6.27 Unless the *Disputing Party* gives a *Notice of Dispute* to the *Invoicing Party*, the *Disputing Party* must pay the *Disputed Invoice* in full, subject to its right to seek a subsequent adjustment under clauses 6.23 to 6.25 (Adjustment of invoices) or to dispute the amount of the invoice under clause 6.29 after the invoice has been paid in full.
- 6.28 If the *Disputing Party* notifies the *Invoicing Party* of a *Disputed Invoice* under a *Notice of Dispute*, the parties will seek to resolve that dispute in accordance with clause 6.29, and the *Disputing Party* will be required to pay the amount of the invoice not genuinely disputed by the *Disputing Party*.
- 6.29 Any dispute as to an invoice shall be resolved in accordance with this clause and neither party may refer the dispute to the dispute resolution procedure under clause 13 until the parties have satisfied clause 6.30(a) and, if applicable, 6.30(b).
- 6.30 The *Invoicing Party* will:
- (a) discuss with the *Disputing Party* any queries that the *Disputing Party* may have in relation to an invoice; and

- (b) if it receives a reasonable request in writing from the *Disputing Party* within 10 *Business Days* after receipt of the invoice setting out the grounds giving rise to the request, conduct an internal review of the invoice within 10 *Business Days* after receipt of the request, and report its findings to the *Disputing Party* as soon as practicable after completion of that review.
- 6.31 If the matter is not resolved within 2 *Business Days* from the receipt by the *Disputing Party* of the *Invoicing Party's* report under clause 6.30(b), either party may refer it to dispute resolution under clause 13.
- 6.32 If, following the resolution of a dispute in accordance with clause 6.29 or clause 13, it is determined that the amount that is properly due to the *Invoicing Party* in relation to that invoice is:
- (a) more than the amount already paid by the *Disputing Party*, then the *Disputing Party* must pay within 5 *Business Days* to the *Invoicing Party* the difference between the amount already paid and the amount determined to be payable; or
- (b) less than the amount already paid by the *Disputing Party*, then the *Invoicing Party* must pay within 5 *Business Days* to the *Disputing Party* the difference between the amount already paid and the amount determined to be payable,
- together with interest on that amount for the period of the overpayment calculated in accordance with clause 6.33.
- 6.33 Interest on the difference payable under clause 6.32 shall be calculated at the *Default Rate* applicable on the first day of each month, capitalised on the first day of each month and calculated on actual days elapsed and a 365 day year for each day after that invoice was due to be paid up to and including the date the difference and any accrued interest payable under this clause 6.33 (if any) is paid.
- 6.34 Unless the parties otherwise agree, no party may set off or deduct any money which it owes to the other party against any money which the other party owes to the *First Party*.
- 6.35 The payment by the *Disputing Party* of all or part of an invoice from the *Invoicing Party* (whether or not that invoice was disputed by the *Disputing Party* at the time) will not preclude the *Disputing Party* from subsequently challenging its liability to pay that invoice in accordance with this clause 6.35 or a part of that invoice (unless the challenge relates to a dispute which has already been finally determined in accordance with this clause 6.35).

7 Information Exchange

Compliance with privacy laws

- 7.1 Each party agrees that:
- (a) any obligation under the *Agreement* to provide information is subject to any applicable *Laws* (including the *Regulatory Instruments*) imposing obligations in respect of privacy, disclosure, use or confidentiality of information; and
- (b) it will hold any information which it receives under the *Agreement* in accordance with any requirements of the *Agreement* and any applicable *Laws* (including the

Regulatory Instruments) relating to privacy, disclosure, use or confidentiality of information.

Provision of information

- 7.2 To the extent permitted by law, and subject to any legislative, contractual or other obligations of confidentiality (including under the *Regulatory Instruments*), each party must use its reasonable endeavours to provide the other party at no cost and in a timely manner information or documentation which the other party reasonably requires to carry out its obligations under the *Agreement* or under the *Regulatory Instruments*.
- 7.3 For each *Customer* whose information is to be disclosed by the *User* to *Country Energy Gas*, the *User* must provide to that *Customer* on behalf of *Country Energy Gas* a privacy notice in such form as may be requested by *Country Energy Gas* from time to time for the purpose of *Country Energy Gas* discharging its obligations under privacy *Laws* and the *Regulatory Instruments*.

Use of information

- 7.4 Subject to clause 16 (Confidentiality), a recipient may only use or disclose the information disclosed to it under clauses 7.2 and 7.3:
- (a) for the purposes for which the information was provided by the party providing the information; or
 - (b) to the extent that it is permitted to use or disclose the information under the law or any contractual obligation; or
 - (c) in accordance with any guidelines issued by the *Regulator*.

Changes in information

- 7.5 If either party becomes aware of any material change in any of the information provided under clauses 7.2 and 7.3, that party must notify the other party as soon as reasonably practicable of that change.

Accuracy of information

- 7.6 Each party must take all reasonable steps to ensure that all information which it provides to the other party (whether that information is generated by the first mentioned party or a third person) under the *Agreement* is accurate and complete.

8 Communications regarding Customers and System Data

Answering Calls

- 8.1 If a *Customer* contacts the *User* by telephone about a *Gas Leak* in *Country Energy Gas' Distribution Area*, the *User* must:
- (a) transfer the *Customer's* telephone call to the *Emergencies Number*; and
 - (b) prior to transferring the *Customer's* telephone call to *Country Energy Gas*, advise the *Customer* of the *Emergencies Number*.

8.2 The *User* must publish the *Emergencies Number* on its *Customers'* accounts as the *Gas Leaks and Emergencies Number*. Until otherwise notified by *Country Energy Gas* to the *User*, the *Emergencies Number* is: 132080.

Provision of information for planned Interruptions and Disconnections

8.3 The notification which *Country Energy Gas* sends out to *Customers* notifying them of any planned *Interruptions* or *Disconnections* which are not the subject of a *Disconnection Request* must bear *Country Energy Gas's* contact details and should state that any enquiries regarding planned *Interruptions* or such *Disconnections* should be directed to *Country Energy Gas*. *Country Energy Gas* will also advise the *User*.

8.4 If a *Customer* contacts the *User* about a planned *Interruption* or a *Disconnection* requested or proposed by *Country Energy Gas*, the *User* must:

- (a) subject to clause 8.4(b), refer the *Customer* to *Country Energy Gas*; or
- (b) where the *Customer* informs the *User* that it declines to contact or (where appropriate) be transferred to *Country Energy Gas*, deal with the *Customer* itself.

Customer Details

8.5 In respect of each *Customer*, the *User* must provide to *Country Energy Gas* the following details:

- (a) name;
- (b) contact name;
- (c) telephone number;
- (d) address for service of notices;
- (e) site address for DPI;
- (f) the estimated *Quantity* of, and the period over which, *Gas* is to be *Supplied* including estimated *Customer MHQ* and annual *Quantity* requirements;
- (g) details of any special circumstances (such as *Meter* access restrictions) of which the *Customer* has informed the *User* or of which the *User* is otherwise aware, and which *Country Energy Gas* requires to assist it to comply with its obligations under the *Regulatory Instruments*.
- (h) Load shedding ranking

8.6 Information described in clause 8.7(a) must be provided in the following manner:

- (a) on or before the *Commencement Date*, by an electronic transfer of the requisite details from the *User's* database;
- (b) on a transaction by transaction basis or as the details described in clause 8.7(a) otherwise change.

New Delivery Points

8.7 The *User* must provide the following information to *Country Energy Gas* for each new *Delivery Point* by submitting a *Network Connection Application* published on *Country Energy Gas's* web site which includes the following information:

- (a) site address;
- (b) contact details for the proposed *Delivery Point*;
- (c) hourly load details for each appliance(s);
- (d) installers details;
- (e) *User's* details; and
- (f) Load shedding ranking.

Acceptance by Country Energy Gas

8.8 After the *User* provides to *Country Energy Gas* the information required by clauses 8.5 to 8.7 for a *Customer*, *Country Energy Gas* must use its best endeavours to agree with the *User* the *Customer MHQ* for that *Customer* and in all cases respond to the *User* in sufficient time to permit each party to comply with its obligations under any applicable *Regulatory Instrument* and otherwise within such time and manner as may be agreed between *Country Energy Gas* and the *User*.

Enquiries or Complaints

8.9 If a person makes an enquiry or a complaint to the *User* which relates to the *Distribution System* (including a *Gas Leak*), the *User* must:

- (a) where the enquiry or complaint is made by telephone, transfer the person directly to *Country Energy Gas's* enquiry or complaint telephone number where practicable; or
- (b) otherwise, as soon as practicable, but no later than the next *Business Day* after receiving the enquiry or complaint, provide *Country Energy Gas* with the details of the enquiry or the complaint, including contact details of both the person making the enquiry or complaint and the person who received the enquiry or complaint. The *User* must provide to *Country Energy Gas* on request copies of any documents or written records (including in electronic format) relating to the enquiry or complaint. *Country Energy Gas* will then be responsible for resolving the enquiry or the complaint and must attempt to resolve the enquiry or complaint expeditiously.

8.10 If a person makes an enquiry or a complaint to the *User* and the enquiry or the complaint relates to the *User* only, the *User* must deal with the enquiry or the complaint and the *User* is not required to notify *Country Energy Gas*.

8.11 If a person contacts *Country Energy Gas* to make an enquiry or a complaint about a *Gas Leak* or other issue which relates to the *Distribution System*, then *Country Energy Gas* must deal with the enquiry or complaint, and *Country Energy Gas* is not required to notify the *User*.

8.12 If a person makes a complaint or enquiry to *Country Energy Gas* and the enquiry or the complaint relates to the *User*, *Country Energy Gas* must:

- (a) where the enquiry or complaint is made by telephone, transfer the person directly to the *User's* enquiry or complaint telephone number where practicable; or
- (b) otherwise, as soon as practicable, but no later than the next *Business Day* after receiving the enquiry or complaint, provide the *User* with the details of the enquiry

or the complaint, including contact details of both the person making the enquiry or complaint and the person who received the enquiry or complaint. *Country Energy Gas* must provide to the *User* on request copies of any documents or written records (including in electronic format) relating to the enquiry or complaint. The *User* will then be responsible for resolving the enquiry or the complaint and must attempt to resolve the enquiry or complaint expeditiously.

Ombudsman complaints

- 8.13 In clauses 8.14 to 8.20, the phrase Customer Complaint means any enquiry, question, consultation, discussion, written or verbal expression of dissatisfaction, dispute or disagreement (as applicable) initiated by a person in relation to the Customer, the *User* or *Country Energy Gas* which the *Ombudsman* receives, facilitates, investigates or resolves.
- 8.14 If the *Ombudsman* notifies a party to the *Agreement (First Party)* that it is or will investigate a Customer Complaint that relates to the act or omission of the other party (*Second Party*), then the *First Party* must:
- (a) notify the *Second Party* as soon as reasonably practicable, setting out all relevant details of it, including any relevant time frames;
 - (b) keep the *Second Party* informed of its progress; and
 - (c) consult in advance with, and use its best endeavours to take into account the interest of, the *Second Party* in preparing any response to, or deciding what compensation is payable to settle, the Customer Complaint.
- 8.15 The *Second Party* must provide all reasonable assistance to the *First Party* to enable the *First Party* to comply with its obligations to the *Ombudsman* in a timely manner including:
- (a) supplying the *First Party* with all information relevant to the Customer Complaint which the *Second Party* would reasonably be expected to have, or have access to; and
 - (b) permitting its employees, agents or sub-contractors to attend and provide information at any meeting, conference or interview convened by the *Ombudsman* to consider the Customer Complaint.
- 8.16 The *First Party* and the *Second Party* must co-operate and use their best endeavours to resolve any Customer Complaint as quickly as practicable. However to avoid doubt, neither party is prevented from defending the Customer Complaint.
- 8.17 The *First Party* may settle a Customer Complaint relating to the act or omission of the *Second Party* if it has, in relation to the proposed settlement terms:
- (a) given the *Second Party* at least 5 *Business Days*' notice of those terms; and
 - (b) considered the *Second Party's* expressed views of those terms.
- 8.18 If the *First Party* is required or agrees to pay compensation to settle the Customer Complaint, then the *Second Party* must reimburse the *First Party* to the extent that the Customer Complaint relates directly to an act or omission of the *Second Party*.
- 8.19 The *Second Party* must make any payment under clause 8.18 within 7 *Business Days* of receiving notification from the *Second Party* (which notification shall include a copy of the *Ombudsman's* binding decision (if applicable)).

8.20 The amount to be reimbursed by the *Second Party* to the *First Party* includes the reasonable disbursement incurred by the *First Party*, including the *Ombudsman's* handling charges.

Assignment of and Changes in Reference Tariffs

8.21 *Country Energy Gas* must assign a *Reference Tariff* to a *Delivery Point* at which *Gas* is or may be withdrawn by or in respect of a *Customer* and notify the *User* of the *Reference Tariff* assigned to that relevant *Delivery Point* in accordance with the *Reference Tariff Policy*.

8.22 *Country Energy Gas* must notify the *User* of any changes that will occur to *Reference Tariffs* in accordance with the *Access Arrangement* and the *Regulatory Instruments*.

8.23 The *User* must notify *Country Energy Gas* as soon as practicable if it is informed by a *Customer* of a change in the circumstances, use, consumption, demand characteristics or connection characteristics of the *Customer* which may result in the *Customer* no longer satisfying the conditions relating to *Country Energy Gas's Reference Tariff* applying to that *Customer*.

8.24 The *User* must advise *Country Energy Gas* as soon as is practicable after becoming aware of any change of circumstances, use, consumption, demand characteristics or connection characteristics of any of its *Customers* which may require *Country Energy Gas* to assign another *Reference Tariff* to the *Customer*.

8.25 If a *Customer* requests a *User* to re-assign the *Customer* to a different *Reference Tariff*, the *User* must refer the request to *Country Energy Gas* as soon as practicable after receiving the request.

8.26 If the *User* refers a request to *Country Energy Gas* for a change in the *Reference Tariff* assigned to the *Delivery Point*, *Country Energy Gas* must advise the *User* as soon as practicable either:

- (a) that the change in the assigned *Reference Tariff* can occur, when that change will commence and the *Charges* which will apply following the change; or
- (b) that the change in the assigned *Reference Tariff* cannot occur, with reasons.

Theft of Gas

8.27 A party must promptly notify the other party if it reasonably believes that a person is committing or has committed theft of *Gas* from the *Distribution System* and the other party may be affected by the theft.

Information for Customers

8.28 If *Country Energy Gas* receives a request from a *Customer* for documentation or information required to be provided by the *User* under the *Regulatory Instruments*, *Country Energy Gas* will advise the *Customer* of the *User's* contact details or pass on any written request to the *User* as soon as reasonably practicable.

8.29 Where requested by *Country Energy Gas*, the *User* must deliver to a *Customer* any notification, information or documentation provided by *Country Energy Gas* for that *Customer* which is required to be provided by *Country Energy Gas* under the *Agreement* or the *Regulatory Instruments*.

9 Force Majeure

Suspension of Obligations

- 9.1 If *Country Energy Gas* is unable wholly or in part to perform on time as required any obligation under the *Agreement* (other than an obligation to pay money) by reason of the occurrence of a *Force Majeure Event*, that obligation shall be suspended, without liability, so far *Country Energy Gas*' ability to perform is affected by the *Force Majeure Event*.

Mitigation of Force Majeure Event

- 9.2 *Country Energy Gas* shall use all reasonable endeavours to remove the effect of each *Force Majeure Event* affecting its performance of the *Agreement*, but nothing in this clause 9.2 requires it to settle any industrial dispute otherwise than as *Country Energy Gas* in its absolute discretion sees fit.

Notice

- 9.3 Subject to clause 9.2, if *Country Energy Gas* reasonably considers that a circumstance has arisen which constitutes or is likely to constitute or result in a *Force Majeure Event*, it shall as soon as reasonably practicable thereafter give the *User* notice containing full particulars of the *Force Majeure Event* including its nature and likely duration, the obligations affected by it and the nature and extent of its effect on those obligations and the steps taken to remove, overcome or minimise its effects.

10 Country Energy Gas Rights against Customers

Consultation prior to Disconnection

- 10.1 When Disconnecting a *Customer's Delivery Point* (other than pursuant to a *Disconnection Request*), *Country Energy Gas* and the *User* must, subject to *Country Energy Gas*' and *User's* obligations under the *Regulatory Instruments*, use reasonable endeavours to agree the procedure to be followed in effecting the *Disconnection*.
- 10.2 If *Country Energy Gas* and the *User* fail to agree a procedure under clause 10.1 within 3 *Business Days* of *Country Energy Gas* first advising the *User* of its desire to Disconnect the *Customer's Delivery Point*, *Country Energy Gas* may effect the *Disconnection* and otherwise enforce its rights against the *Customer*.
- 10.3 Notwithstanding clauses 10.1 and 10.2, *Country Energy Gas* may Disconnect a *Customer's Delivery Point* without notifying or consulting with the *User* where the *Disconnection* is required due to an Emergency, or where relevant *Regulatory Instruments* require or allow it. *Country Energy Gas* will inform the *User* as soon as practicable after the event.

The User to notify Customer and Country Energy Gas

- 10.4 The *User* must notify each *Customer* of the obligations set out in Schedule 1 and use reasonable endeavours to ensure that each *Customer* complies with these obligations (and by including them in any *Customer Supply Contract* with *Customers*).
- 10.5 The *User* must notify the *Customer* as soon as it becomes aware that a *Customer* is, or may, breach any of its obligations under the *Regulatory Instruments* or as set out in

Schedule 1, and if the *Customer* does not take remedial action, the *User* must promptly notify *Country Energy Gas* of the breach or potential breach.

Country Energy to indemnify the User

10.6 *Country Energy Gas* shall indemnify the *User* against *Claims* arising from, or incurred by the *User* as a consequence of, any action taken by the *User* under this clause 10 to enforce *Country Energy Gas*' rights at the request of *Country Energy Gas*, except to the extent that the *Claim* arises from the negligent or reckless act or omission of the *User* or from any breach or non-observance by the *User* of the *Agreement* or the *Regulatory Instruments*.

Limitation of the User's obligations

10.7 Nothing in this clause is intended to affect or impose on the *User* any of *Country Energy Gas*' rights or obligations under the *Regulatory Instruments*.

11 Term and Termination

Term

11.1 The *Agreement* will commence on the *Commencement Date* and continue until terminated under this clause 11, or as otherwise agreed by the parties.

Termination for default or insolvency of the User

11.2 Where:

- (a) the *User* defaults in due and punctual payment of any money at the time and in the manner prescribed under the *Agreement*; or
- (b) the *User* fails to provide *Credit Support* in accordance with section 5.6 of the *Access Arrangement*; or
- (c) the *User* defaults in the performance of any of its other promises or obligations under the *Agreement* which would cause material detriment to *Country Energy Gas*; or
- (d) there is an *Insolvency Event* in relation to the *User*,

then the *User* is in default and *Country Energy Gas* may give notice of the default to the *User* stating:

- (i) that *Country Energy Gas* considers that the *User* is in default; and
- (ii) the cause of the default.

11.3 At the same time as giving any notice to the *User* under clause 11.2, *Country Energy Gas* must give a copy of that notice to the *Regulator*.

11.4 If the *User* does not remedy the default specified in the notice given under clause 11.2 within the following times:

- (a) 11.2(d), 5 *Business Days*; and
- (b) in the case of any other default described in clause 11.2, 15 *Business Days*,

then *Country Energy Gas* may give notice of its intention to terminate the *Agreement* under clauses 11.5 to 11.8.

Notice of termination

- 11.5 Where *Country Energy Gas* is entitled under clause 11.4 to give a notice under clauses 11.5 to 11.8, *Country Energy Gas* may give notice to the *User* stating that *Country Energy Gas* intends to terminate the *Agreement*.
- 11.6 At the same time as giving any notice to the *User* under clause 11.5, *Country Energy Gas* must give a copy of that notice to the *Regulator*.
- 11.7 The *User* must within 5 *Business Days* of the service of a notice of termination under clause 11.5, remedy or remove the subsisting default.
- 11.8 If within the 5 *Business Days* referred to in clause 11.7 the *User* does not remedy or remove the subsisting default, *Country Energy Gas* may by further notice to the *User* terminate the *Agreement* with effect from the date specified in the notice.

Termination for jeopardising the Distribution System

- 11.9 If the *User* jeopardises the safety or integrity of the *Distribution System* and the *User* is reasonably able to stop the action which jeopardises the safety or integrity of the *Distribution System*, then *Country Energy Gas* may serve a notice on the *User*:
- (a) specifying the action jeopardising the safety or integrity of the *Distribution System* (*Relevant Action*); and
 - (b) specifying a reasonable period of time within which the *User* must take all reasonable actions within its control either to:
 - (i) ensure that the *Relevant Action* is stopped; or
 - (ii) ensure that the *Relevant Action* not repeated,whichever is applicable.
- 11.10 If the *User* has not complied with a notice under clause 11.9 within the time specified in that notice, *Country Energy Gas* may send a notice to the *User* stating that *Country Energy Gas* intends to terminate the *Agreement* if the *Relevant Action* is not stopped within 5 *Business Days*.
- 11.11 If the *User* does not stop the *Relevant Action* being taken within 5 *Business Days* of receiving the notice specified in clause 11.10, *Country Energy Gas* may terminate the *Agreement* by further notice to the *User* with effect from the date specified in the notice.

Termination where no Customers

- 11.12 If at any time there is no *Customer* in respect of whom the *User* requires *Transportation Services* under the *Agreement*, the *User* may, by notice to *Country Energy Gas*, terminate the *Agreement*.

Termination by Country Energy Gas

- 11.13 *Country Energy Gas* may terminate the *Agreement* on the giving to the *User* of 90 *Business Days*' notice, where, under the *Regulatory Instruments*, *Country Energy Gas* ceases to be obliged to provide *Transportation Services* to the *User*.

Automatic termination

11.14 If *Country Energy Gas' Reticulator's Authorisation* is revoked by the *Regulator*, then the *Agreement* will automatically terminate with effect from the date that the *Reticulator's Authorisation* is revoked and *Country Energy Gas* will so notify the *User*.

11.15 If the *User* ceases to hold a *Supplier's Authorisation*, then the *Agreement* will automatically terminate with effect from the date that the *User's Supplier's Authorisation* is revoked.

Consequences of Termination

11.16 Upon termination or expiration of the *Agreement*, or replacement of the *Agreement* with an agreement having similar effect, the *Agreement*, other than section 5.6 of the *Access Arrangement* (Bonds and Credit Support) and clauses 6.23 to 6.25 (Adjustment of invoices), 11.18 and 11.19 (Preservation of rights), 11.20 (*Transportation Services* after termination), 12 (Liabilities and indemnities), 13 (Dispute resolution), 16 (Confidentiality) and 17 (Law and jurisdiction), is at an end as to its future operation except for the enforcement of any right or claim which arises on, or has arisen before, termination.

Remedies for Default

11.17 Subject to clause 11.16 (Consequences of termination), without limiting any other rights of the parties under the *Agreement* or otherwise at law, if a party has defaulted on the performance of an obligation to pay any amount to the other party under the *Agreement*, the non-defaulting party may:

- (a) set off, apply or draw on (as the case may be) any *Credit Support* and any accrued interest for the amount then due and payable by the defaulting party to the non-defaulting party; or
- (b) sue the defaulting party for compensation for that default and exercise all available legal and equitable remedies including, suing for specific performance, injunctive relief or such other orders as it deems appropriate.

Preservation of rights

11.18 Nothing in clause 11 will operate to exclude, limit or otherwise affect the parties' rights, remedies or powers under statute, common law or in equity and the parties' rights under clause 11 to terminate the *Agreement* will be without prejudice to the parties' rights to pursue relief by way of damages, injunction or specific performance in respect of a breach of the *Agreement*.

11.19 Without limiting the foregoing, *Country Energy Gas* shall be entitled to render an invoice to the *User* for *Transportation Services* provided and not invoiced up to and including the date of termination, and any such invoice will be payable in accordance with clause 6 (payment and billing for *Transportation Services*).

Transportation Services after termination

11.20 Notwithstanding the termination of the *Agreement*, *Country Energy Gas* and the *User* acknowledge that *Country Energy Gas* may continue to provide *Transportation Services* in respect of any *Customer* until the first to occur of the events specified in clause 3.7 (Cessation of provision of *Transportation Services*). All provisions of the *Agreement* which relate to the provision of *Transportation Services* shall continue to apply, and the *User* will remain liable to pay the *Charges*, in respect of any such *Transportation Services*.

12 Liabilities and indemnities

No Warranties

- 12.1 Subject to the *Trade Practices Act 1974* (Cth) and the express provisions of the *Agreement*, all warranties, *Terms and Conditions* in relation to the provision of the *Transportation Services*, or other product or service which may be otherwise implied by use, statute or otherwise are, to the extent that they may lawfully be, hereby excluded.
- 12.2 If a condition or warranty is implied into the *Agreement* under the *Trade Practices Act 1974* (Cth) or any equivalent State or Territory legislation that cannot be excluded, then *Country Energy Gas*' liability to the *User* for breach of the condition or warranty is limited to (at *Country Energy Gas*' option) to:
- (a) the re-supply of the relevant service under the *Agreement*; or
 - (b) the payment of having the relevant service re-supplied.

Non-operation of limitations of liability

- 12.3 *Country Energy Gas* may not rely on clause 12.1 of the *Agreement* to exclude any liability of *Country Energy Gas* to the *User* for any *Claim* made against the *User* by a *Customer*, to the extent that, at the time the *User* entered into its contract with the *Customer*, the *User* was prohibited by law (including the *Regulatory Instruments*) from including in that contract a provision which excluded the *User* from liability for that *Claim*.
- 12.4 Clause 12.1 shall not apply in relation to any *Customer* to whom the *User* sells *Gas* under a contract executed before the *Commencement Date* to the extent that the *Customer Supply Contract* does not exclude the *User* from the warranties, *Terms and Conditions* described in clause 12.1.

Insurance

- 12.5 The *User* will effect and keep current such policies of insurance as a prudent person in the position of the *User* would effect and on terms reasonably acceptable to *Country Energy Gas* on or before the *Commencement Date* until the termination of the *Agreement*, including:
- (a) Public liability/products cover;
 - (b) Appropriate industrial special risks cover; and
 - (c) Worker's compensation and employee liability cover as required by law.
- 12.6 The *User* will cause *Country Energy Gas*' interest to be duly noted on the policies and the *User* will provide *Country Energy Gas* with a schedule setting out details of those insurances and confirming the currency of them;
- 12.7 The *User* must give full, true and particular information to the relevant insurer of all matters the non-disclosure of which might in any way prejudice or affect the policy or policies of insurance or the payment of any or all money under them;
- 12.8 Before the cancellation by the *User* of any insurance policy required to be effected under the *Agreement* the *User* must first provide details of the replacement insurance policy, which is proposed to be substituted for the policy to be cancelled;

12.9 The *User* acknowledges that it is responsible for any policy deductibles;

12.10 The *User* must during the continuance of the *Agreement*, promptly notify *Country Energy Gas*:

- (a) if it becomes aware that any of the conditions precedent to the issuance and operation of the insurance are not, or are no longer, satisfied;
- (b) if it has made or is making claims under the insurance which may materially affect the cover provided by the insurance; or
- (c) if it becomes aware that the insurance has been, or is about to be cancelled, or a notice of cancellation or other material notice under or in relation to the insurance has been or is about to be issued by the insurer (and, upon the issue of the notice, it must provide a copy to *Country Energy Gas*).

Indemnity by the User

12.11 The *User* indemnifies *Country Energy Gas* against any cost, demand, expenses or liability (including without limitation liability to third parties) suffered or incurred by *Country Energy Gas* as a consequence of:

- (a) damage caused by the *User* or a *Customer* to the *Distribution System*; and
- (b) *Customers* withdrawing in any hour a *Quantity* of *Gas* at any *Delivery Point* exceeding the *Customer's MHQ* at that *Delivery Point*.

Exemption of liability

12.12 Notwithstanding any other provision of the *Agreement* and subject to any *Laws* to the contrary, *Country Energy Gas* is not liable to any penalty or damages for failing to convey *Gas* through the *Distribution System* if the failure arises out of any accident or cause beyond *Country Energy Gas*' reasonable control, including:

- (a) (momentary fluctuations): momentary fluctuations in the amount of *Gas* delivered to the *User* at any *Delivery Point* or transported through the *Network*;
- (b) (*User's* failure): any failure to deliver any *Gas* to any *Delivery Point* or any other loss, damage or expense suffered by the *User* caused by any failure of a *User* of the *Network* (including the *User*) to observe or comply with an *Agreement* to which it is a party;
- (c) (unavailability of *Gas*): any failure to deliver any *Gas* to any *Delivery Point* or any other loss, damage or expense suffered by the *User* caused by no or reduced injection of *Supply* of *Gas* into, or, by no or reduced off take of *Gas* from, the *Network*; or
- (d) (fault in *User's* equipment): any failure to deliver *Gas* to any *Delivery Point* or any other loss, damage or expense suffered by the *User* caused by any defect or abnormal conditions in the *User's* equipment or that belonging to any other *User* of the *Network* or other person connected to the *Network*.

Limitation of liability

12.13 If there is any event or circumstance other than those described in clause 12.12, notwithstanding any other provision of the *Agreement*, *Country Energy Gas* (including its

directors, officers, employees, authorised agents, contractors, sub-contractors and professional advisers) will only be liable for:

- (a) (direct loss or damage): the direct loss or damage to the *User* (excluding any loss of profit by the *User* or the amount of any damage awarded against the *User* in favour of, or moneys paid by the *User* by way of settlement to any third party and any costs or expenses of the *User* in connection with the same) arising from *Country Energy Gas*' failure to comply with or observe any provision of the *Agreement*; and
- (b) (total amount of liability): in respect of such direct loss or damage to the *User*, up to the maximum sum of \$20,000 for any single event or circumstance of failure described in paragraph (a) above (and a series of such failures arising from the same event or circumstance of failure) and up to the maximum sum of \$100,000 in respect of events or circumstances of failure described in paragraph (a) above occurring in any one period of 365 consecutive *Days*.

Third Party Claims and Demands

12.14 A party (the *Indemnified Party*) must:

- (a) notify the other party (the *Responsible Party*) of any third party *Claim*, for which it may be indemnified under this clause 12;
- (b) permit the *Responsible Party* (entirely at the *Responsible Party's* expense) to defend or settle that third party *Claim* as the *Responsible Party* sees fit, or where the *Responsible Party* does not elect to defend or settle that third party *Claim*, to have a watching brief and be kept fully informed by the *Indemnified Party* of the progress of that third party *Claim*; and
- (c) provide the *Responsible Party* (at the *Responsible Party's* expense) with such assistance in respect of the third party *Claim* as the *Responsible Party* may reasonably request.

12.15 If the *Responsible Party* elects to take over conduct of a third party *Claim* as contemplated in clause 12.14 the *Responsible Party* must:

- (a) consult with and where reasonably possible, take account of the views of the *Indemnified Party* in relation to the progress of the third party *Claim*; and
- (b) if it becomes aware that the *Indemnified Party* may have some liability in respect of that third party *Claim* for which the *Indemnified Party* will not be indemnified under this clause 12, notify the *Indemnified Party* of that fact, consult with and keep the *Indemnified Party* informed in respect of the progress of that third party *Claim* and comply with the provisions of clauses 12.14 to 12.16 as if references in that clause to the *Indemnified Party* were to the *Responsible Party*, and vice versa.

12.16 If the *Responsible Party* elects not to take over the conduct of a third party *Claim* as contemplated in clause 12.14, the *Responsible Party* must indemnify the *Indemnified Party* against all costs (including reasonable legal costs) incurred by the *Indemnified Party* in defending the third party *Claim*, to the extent that those costs are not recovered from any other person.

No Admissions

- 12.17 Except where required by law to do so, the *Indemnified Party* must not, in relation to any *Claim* of the type referred to in clause 12:
- (a) make any admission or representation prejudicial to the *Responsible Party*;
 - (b) agree to any compromise or settlement; and
 - (c) do anything else that may be prejudicial to the *Responsible Party*, without the *Responsible Party's* written consent.

13 Dispute resolution

Disputes

- 13.1 To the extent that the *NGL*, *NGR* or the *Retail Market Procedures* apply to a dispute under the *Agreement*, the parties agree to apply the respective dispute resolution procedures to that dispute.
- 13.2 To the extent that the *Network Code* applies to a dispute under the *Agreement*, the parties agree to apply the dispute resolution procedures under the *Network Code* to that dispute.
- 13.3 Subject to clause 6.29 to 6.35 (*Disputed invoices*) and clauses 13.1 and 13.2, any dispute or difference arising between the parties out of or in connection with the *Agreement* must be resolved in accordance with clauses 13.4 to 13.16.

Notice of Dispute

- 13.4 If clause 13.3 applies to the dispute or difference, either party may give written notice of the dispute or difference to the other party. The notice shall state that it is a notice under this clause 13 and shall identify the dispute concerned and the clauses of the *Agreement* relevant to the dispute.

Referral to Chief Executive Officers or nominees

- 13.5 If the parties fail to resolve a dispute or difference within 10 *Business Days* of a *Notice of Dispute* being given under clause 13.4, the dispute or difference must be referred for resolution to the respective chief executive officers (or the chief executive officer's nominee) of the parties whose decision shall be binding. Subject to clause 13.17, the parties waive their rights to commence court proceedings for resolution of the dispute prior to referral of the issue to the chief executive officers (or their nominees) under this clause. If the matter is not resolved within 5 *Business Days* of such referral either party may then take further action in accordance with the procedures below.

Mediation

- 13.6 The parties must comply with clauses 13.4 and 13.5 as a pre-condition to submitting a dispute to mediation.
- 13.7 If a dispute is not resolved by the chief executive officers (or nominees, as applicable) of the parties within 5 *Business Days* of it being referred to those persons, either party may submit the dispute to mediation in accordance with and subject to the Mediation and Conciliation Rules of the Institute of Arbitrators and Mediators Australia by giving notice in

writing to the other party, that the dispute remains unresolved and will be submitted to mediation.

- 13.8 *Country Energy Gas* and the *User* will bear their own costs in respect of the mediation.
- 13.9 If a dispute has been submitted to mediation, subject to clause 13.17, the parties waive their rights to commence court or arbitration proceedings for resolution of the dispute until completion of the mediation.
- 13.10 Once a party submits a dispute to mediation, the other party must participate in the mediation.

Arbitration

- 13.11 The parties must comply with clauses 13.4 and 13.5 as a pre-condition to submitting a dispute to arbitration.
- 13.12 If a dispute is not resolved by the chief executive officers (or their nominees, as applicable) of the parties, or if a dispute is not resolved in mediation, either party may submit the dispute to arbitration in accordance with and subject to the Institute of Arbitrators and Mediators Australia Rules for the Conduct of Commercial Arbitrations (the Rules) by giving notice in writing to the other party, in accordance with the Rules, that the dispute remains unresolved and will be submitted to arbitration.
- 13.13 *Country Energy Gas* and the *User* will bear their own costs in respect of the arbitration.
- 13.14 Subject to clause 13.15, without limiting the generality of clause 16 (Confidentiality):
- (a) any arbitration proceedings will be private and confidential as between the parties;
 - (b) no party may cause or permit any part of arbitration proceedings or related correspondence to be published in the press or other media; and
 - (c) all such proceedings and correspondence, the documentation and information relevant to such proceedings and correspondence, and the reasons for any award or other determination made during the arbitration, must be kept confidential by the parties and may not be disclosed other than to the extent permitted under clause 16 (Confidentiality).
- 13.15 Nothing in clause 13.14 applies to or in relation to or restricts in any way:
- (a) disclosure of information to an arbitrator or umpire in accordance with clause 13.12; or
 - (b) disclosure of the proceedings or correspondence or the reasons for the award or other determination in the course of legal proceedings relating to the arbitration, award or other determination made under clause 13.12, or in the course of any other judicial, arbitral or administrative proceedings between the parties.
- 13.16 Once a party submits a dispute to arbitration, the other party must participate in the arbitration.

Summary or urgent relief

- 13.17 Nothing in clause 13 shall prejudice the right of a party to seek urgent injunctive or declaratory relief in a court in respect of any matter arising under the *Agreement*.

Customer Disputes

13.18 If any *Customer* brings any legal proceedings in any court against any party to the *Agreement* (the *Defendant Party*) and the *Defendant Party* wishes to make a third party *Claim* (as defined in clause 13.19) against the other party to the *Agreement*, then the parties agree that the third party *Claim* can be dealt with in the legal proceedings brought by the *Customer* rather than being dealt with under this clause 13.

13.19 For the purposes of clause 13.18, third party claim shall mean:

- (a) any *Claim* by a *Defendant Party* against the other party (whether or not already a party to the legal proceedings) for any contribution or indemnity; or
- (b) any *Claim* by a *Defendant Party* against the other party for any relief or remedy relating to or connected with the subject matter of the legal proceedings and substantially the same as some relief or remedy *Claimed* by the *Customer*; or
- (c) any requirement by a *Defendant Party* that any question or issue relating to or connected with the subject matter of the legal proceedings should be determined not only as between the *Customer* and the *Defendant Party* but also as between either or both of them and the other party (whether or not already a party to the legal proceedings).

Obligations Continuing

13.20 Notwithstanding a reference of a dispute to the dispute resolution procedure in this clause 13:

- (a) the parties shall, so far as it is reasonably practicable, continue to perform and comply with their respective obligations under the *Agreement* to the extent that such obligations are not the subject of that dispute; and
- (b) the parties are not precluded by this clause 13 from exercising their rights of termination in accordance with clause 11 (Term and termination).

14 Representations and Warranties

The *User's* representations and warranties

14.1 The *User* represents and warrants to *Country Energy Gas* that it holds and will continue to hold a *Suppliers Authorisation* for the duration of the *Agreement*.

14.2 The *User* represents and warrants to *Country Energy Gas* that it has the right to have Gas delivered to the *Receipt Point*.

Country Energy Gas's representations and warranties

14.3 *Country Energy Gas* represents and warrants to the *User* that it holds and will continue to hold a *Reticulator's Authorisation* for the duration of the *Agreement*.

Other representations and warranties

14.4 Each party to the *Agreement* represents and warrants that:

- (a) it is incorporated or established and validly existing;

- (b) it has full power, authority and legal right to execute, deliver and perform its obligations under the *Agreement*;
- (c) execution of and performance of that party's obligations under the *Agreement* will not amount to a breach of any contractual or other obligation owed by that party to a third party; and
- (d) as at the date of the *Agreement* an *Insolvency Event* is not subsisting in respect of that party.

No reliance

14.5 Except as otherwise provided in clause 5.9 (*Disconnection* at the request of the *User*) and this clause 14, each party to the *Agreement* acknowledges that in entering into the *Agreement* it has not relied on any representations or warranties about its subject matter.

15 Notices

Method of Giving Notices

15.1 Unless otherwise agreed by the parties, a notice, consent, approval or other communication (each a *Notice*) under the *Agreement* shall be in writing, signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and:

- (a) delivered;
- (b) sent by pre-paid mail;
- (c) transmitted by facsimile; or
- (d) transmitted electronically,

to that person's address, as specified below:

- (i) if to *Country Energy Gas*:

Address:

Attention:

Facsimile:

Telephone:

E-mail:

- (ii) if to the *User*:

Address:

Attention:

Facsimile:

Telephone:

E-mail:

Time of receipt of notice

- 15.2 A Notice given to a person in accordance with this clause 15 is treated as having been given and received:
- (a) if delivered to a person's address, on the *Day* of delivery if prior to 5:00 pm on a *Business Day*, otherwise on the next *Business Day*;
 - (b) if sent by pre-paid mail, on the third *Business Day* after posting;
 - (c) if transmitted by facsimile and a correct and complete transmission report is received, on the day of transmission if the transmission report states that the transmission was completed before 5.00 pm on a *Business Day*, otherwise on the next *Business Day*;
 - (d) if transmitted electronically, on the day of transmission if the information technology system of the person giving the notice states that the transmission was completed before 5.00 pm on a *Business Day*, otherwise on the next *Business Day*.

Time of receipt of Invoices

- 15.3 An invoice payable under clause 6 is deemed to have been received when a summary statement of the invoice is delivered as if it were a Notice. The date of deemed receipt of an invoice will be extended by each day that the supporting documentation relating to the invoice is delivered after delivery of the invoice summary statement.

Confirmation of electronic delivery

- 15.4 Without prejudice to the effectiveness of service of a notice transmitted electronically if a notice is given electronically, under any of section 5.6 of the *Access Arrangement* (Bonds and Credit Support) and clauses 6.26 to 6.35 (*Disputed invoices*), 8.13 to 8.20 (*Ombudsman* complaints), 8.21 to 8.26 (Assignment of and Changes in *Reference Tariffs* or *Reference Services*), 11.2 to 11.4 (Termination for default or insolvency of *User*), 11.5 to 11.8 (Notice of termination) and 13 (Dispute resolution) the notice must also be sent simultaneously by any one of the means listed in clauses 15.1(a) to 15.1(c) (inclusive).

16 Confidentiality

General obligation

- 16.1 Subject to section 5.6 of the *Access Arrangement* (Bonds and Credit Support) and clauses 16.4 and 16.5 (Conditions on disclosure) and 16.6 (Notice to other party) and any confidentiality requirement under the *Regulatory Instruments*, the *Agreement* and all information exchanged between the parties under the *Agreement* or during the negotiations preceding the *Commencement Date* is confidential to the party who provided it and may not be disclosed to any person except:
- (a) by a party, to:
 - (i) its employees and contractors, and the employees and contractors of any of its related bodies corporate, within the meaning of the *Corporations Act*, requiring the information for the purposes of the *Agreement* (or any transactions contemplated by it); and

- (ii) its legal and other professional advisers, requiring the information for the purposes of the *Agreement* (or any transactions contemplated by it) or for the purpose of advising that party in relation thereto;
- (b) with the consent of the party who provided the information;
- (c) if the information is at the time lawfully in the possession of the proposed recipient of the information through sources other than the other party;
 - (i) to the extent required by law or any *Regulatory Instrument* or by a lawful requirement of any authority having jurisdiction over a party (whether pursuant to a licence held by that party or otherwise); or
 - (ii) to the extent required by a lawful requirement of any stock exchange having jurisdiction over a party;
- (d) if required in connection with legal proceedings or other dispute resolution relating to the *Agreement* or for the purpose of advising a party in relation thereto;
- (e) if the information is at the time generally and publicly available other than as a result of breach of confidence by the party wishing to disclose the information or a person to whom it has disclosed the information;
- (f) if the information relates to a *Customer*, in addition to the circumstances described in clauses 16.1(a) to (e), the party may disclose that information to any person if the party has received the explicit informed consent in writing of the *Customer* to do so;
- (g) if disclosure is necessary to ensure the stability of the *Distribution System* or to protect the safety of personnel or equipment;
- (h) pursuant to, and in accordance with, clauses 7 (Information Exchange) and 8 (Communications regarding *Customers* and system data); or
- (i) to confirm the existence of an *Agreement* between the parties.

16.2 For the purposes of the *Agreement*, information is not generally and publicly available merely because it is known to the *Regulator*, *AEMO*, a *Producer* or another *User*.

Representatives to keep information confidential

16.3 Subject to clauses 16.4 and 16.5 (Conditions on disclosure) and 16.6 (Notice to other party), each party shall procure that its employees and contractors, and the employees and contractors of any of its related bodies corporate, its legal and other professional advisers do not disclose (otherwise than to the party) any information concerning the other party or a *Customer* obtained under the *Agreement* except in the circumstances specified in clauses 16.1 and 16.2, or use the information other than for the purpose for which it was disclosed in accordance with the *Agreement*.

Conditions on disclosure

16.4 In the case of a disclosure under clause 16.1, the party proposing to make the disclosure shall inform the proposed recipient of the confidentiality of the information and the party proposing to disclose shall take all reasonable precautions to ensure that the proposed recipient keeps the information confidential.

16.5 If a party is permitted to disclose any *Confidential Information* in accordance with this clause 16, the party proposing to disclose shall use reasonable endeavours to limit the disclosure to those matters which reasonably need to be disclosed in order to accomplish that purpose.

Notice to other Party

16.6 Each party, shall:

- (a) promptly inform the other party of any request received by that party from any person referred to in clause 16.1(a)(i) to disclose information under that clause;
- (b) inform the other party as soon as reasonably practicable after information is disclosed by the party under clause 16.1(a)(i); and
- (c) where possible, not disclose any information under clause 16.1(c)(ii) or 16.1(d) unless the other party has been informed of the proposed disclosure.

17 Law and jurisdiction

Governing Law

17.1 The *Agreement* is governed by the law in force in the State of New South Wales.

Submission to Jurisdiction

17.2 The parties submit to the non-exclusive jurisdiction of the courts of the State of NSW and any courts which may hear appeals from those courts in respect of any proceedings in connection with the *Agreement*.

18 General

Waiver

18.1 The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.

18.2 A power or right may only be waived in writing, signed by the party to be bound by the waiver.

Amendment

18.3 Subject to clause 18.4, the *Agreement* may only be amended or supplemented in writing, executed by the parties in the same manner as the parties executed the *Agreement*.

18.4 Amendments to the *Agreement* can only be approved by the *Regulator* where the *Regulator* approves an amendment to the *Terms and Conditions* in response to a revision submitted by *Country Energy Gas*, the parties agree to amend the *Agreement* in the same way.

Attorneys

18.5 Each attorney who executes the *Agreement* on behalf of a party declares that the attorney has no notice of the revocation or suspension by the grantor or in any manner of the power of attorney under the authority of which the attorney executes the *Agreement*.

Severability

18.6 Any provision in the *Agreement* which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable, and is otherwise capable of being severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions of the *Agreement* or affecting the validity or enforceability of that provision in any other jurisdiction.

Counterparts

18.7 The *Agreement* may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

Further Assurance

18.8 Each party shall do, sign, execute and deliver and shall procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts reasonably required of it or them by notice from another party to carry out and give full effect to the *Agreement* and the rights and obligations of the parties under it.

Entire Agreement

18.9 The *Agreement* is the entire *Agreement* of the parties on the subject matter of the *Agreement*.

Assignment

18.10 Subject to clause 18.11 neither party may assign any of its rights or obligations under the *Agreement* without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed.

18.11 *Country Energy Gas* may assign the *Agreement* to a person who holds a *Reticulator's Authorisation* for all or any part of the *Distribution System*.

Remedies Cumulative

18.12 The rights and remedies provided in the *Agreement* do not exclude any rights or remedies provided by law.

Review of Agreement

18.13 Subject to clauses 18.3 and 18.4, the parties acknowledge that the *Regulatory Instruments* to which the *Agreement* is subject may be the subject of ongoing changes and that those changes may in turn require amendments to be made to the *Agreement*. The parties agree to negotiate in good faith any amendments to the *Agreement* that may be reasonably required as a consequence of any changes to the *Regulatory Instruments* or in light of commercial experience.

No Agency or partnership

18.14 Nothing in the *Agreement* constitutes any agency, partnership or joint venture relationship between the parties.

Restriction on authority

18.15 Neither party shall make or give any representation or warranty in relation to the other party or agree to any obligation on behalf of the other party, unless the representation, warranty or obligation has been expressly approved in advance in writing by the other party.

Costs

18.16 Each party will bear its own legal and other costs in relation to the negotiation and documentation of the *Agreement*.

18.17 Each party will bear half of any stamp duty payable in respect of the *Agreement*.

Schedules

18.18 The Schedules form part of the *Agreement* and in the event of inconsistency, the Schedules will prevail over the other terms of the *Agreement*.

Schedule 1

Matters to be notified to Customer by User (clauses 10.4 and 10.5)

Customer obligations under the *Regulatory Instruments* relating to:

1. Prohibition against allowing Gas Supplied by *Country Energy Gas* to the *Customer's Supply* address to be used at another *Customer's Supply* address;
2. Prohibition against taking at the *Customer's Supply* address Gas Supplied to another *Supply* address;
3. Prohibition against *Supplying Gas* to any other person unless permitted by *Regulatory Instruments* or agreed by *Country Energy Gas*;
4. Prohibition against interfering or tampering with, or permitting interference or tampering with, *Country Energy Gas's Distribution System* or any *Metering Installation* at the *Customer's Supply* address;
5. Prohibition against allowing Gas Supplied to a *Residential Customer* to be used for non-domestic purposes other than for home office purposes;
6. Prohibition against allowing Gas Supplied under a specific purpose tariff to be used for another purpose;
7. Prohibition against bypassing or allowing Gas Supplied to the *Customer's Supply* address to bypass the *Meter*;
8. Prohibition against allowing persons who are not licensed Gas installers to perform any work on *Gas Installations*;
9. Maintenance of the *Gas Installation* or *Country Energy Gas's* equipment at the *Customer's Supply* address;
10. Prohibition against the use of Gas Supplied in a manner that may:
 - (a) interfere with *Country Energy Gas's Distribution System* or with *Supply* to any other *Gas Installation*, or
 - (b) cause damage or interference to any third party;
11. Protection of *Country Energy Gas's* equipment at the *Customer's Supply* address from damage or interference
12. Informing *Country Energy Gas* of changes:
 - (a) to the major purpose for usage of Gas at the *Customer's Supply* address,
 - (b) affecting access to the *Customer's Metering Installation*, and
 - (c) or proposed changes to the *Customer's Gas Installation* which may affect the quality or safety of the *Supply of Gas* to the *Customer's Supply* address or any other person;
13. Informing *Country Energy Gas* about any *Gas Leak* or other problem with *Country Energy Gas's Distribution System*;
14. Access rights for *Connection* or *Disconnection*;

15. Access rights for inspection or testing of *Gas Installations* or *Metering Installations*;
16. Access rights for undertaking inspection, repairs, testing or maintenance of the *Distribution System*;
17. Access rights for collection of *Metering Data*;
18. *Country Energy Gas's Interruption* or load shedding rights;
19. Any matter that may threaten:
 - (a) the health or safety of any person;
 - (b) damage to the property;
 - (c) the integrity or safety of the *Distribution System*, or
 - (d) *Supply* to any other *Gas Installation*; and
20. Any other matter required under Schedule 1 of the *Gas Supply (Natural Gas Retail Competition) Regulation 2001*.