

Non Standard Contract Terms and Conditions

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Plan Details

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

Use of bold typeface

Bold typeface has been applied to some words or expressions to indicate that those words or expressions are defined in clause 40 or elsewhere. In interpreting this **Contract** the fact that bold typeface has or has not been applied to a word or expression is to be disregarded.

1 This Non-Standard Contract

This Non-Standard **Contract** is a legally binding **Contract** for the sale of **Gas** at the **Supply Address** by **Kleenheat** and the payment for that **Gas** and other services by the **Customer**.

2 Gas and Services provided by Kleenheat

Under this **Contract**, **Kleenheat** will:

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

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

However, **Kleenheat** does not guarantee that **Gas** will be supplied to the **Customer** without interruption.

3 Price and Fees

The **Customer** must pay **Kleenheat**:

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

Kleenheat will **Publish** the standard **Price**. A list of the standard **Prices** and **Fees** is set out on our website at www.kleenheat.com.au.

If requested by the **Customer**, **Kleenheat** will send the **Customer** a copy of its standard **Prices** and **Fees**.

3.1 Price

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

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

The **Price** may be modified by the **Plan Details**.

The residential **Price** includes a fixed component and a usage component relating to the quantity of **Gas** consumed by the **Customer**. The fixed component and the usage component will be listed separately when the residential **Price** is **Published** and may be treated separately when **Kleenheat** determines any discount applicable to the residential **Price**.

Unless the **Customer** qualifies to pay the residential **Price**, the **Customer** must pay the non-residential **Price**.

A residential **Price** will be payable for a **Supply Address** which is a residential dwelling (including a house, flat, home **unit** or other place of residence) or a place other than a dwelling to which the supply of **Gas** is separately **metered**, and the **Gas** supplied is solely for residential use.

If the **Customer** is paying a residential **Price** the **Customer** must not use **Gas** for any non-residential purpose without giving **Kleenheat** reasonable notice. **Kleenheat** can apply the non-residential **Price** to the **Customer** from the time that **Gas** was used for a non-residential purpose and can back-date the non-residential **Price** up to a maximum of 12 months.

3.2 Fees

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

- (a) account application;

- (b) overdue notices [see clause 5.3];
- (c) turning off the **Gas** in certain circumstances [see clause 20];
- (d) turning the **Gas** back on in certain circumstances [see clause 21];
- (e) removing or disconnecting the **Meter** [see clause 20.12];
- (f) replacing or reconnecting the **Meter** [see clause 21.3];
- (g) final **Meter** readings [see clause 17];
- (h) **Meter** testing [see clause 13];
- (i) early termination of **Fixed Term Contracts** [see clause 22.2]; and
- (j) various other non-standard connection costs.

Other **Fees** may apply.

Fees will be **Published**.

3.3 Changing the Price and the Fees

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

Kleenheat will **Publish** any variation to the standard **Price** or any **Fees** payable by the **Customer**. If the **Customer** is affected by the variation to the **Price** or **Fees**, **Kleenheat** will give notice as soon as practicable after the variation is gazetted or **published** and, in any event, no later than the next **Bill** in the **Customers Billing Period**.

4 GST

The **Customer** must pay any goods and services tax payable on any supply made under this **Contract**.

5 Bills

5.1 Billing

Kleenheat will use reasonable endeavours to issue a **Bill** at least every 3 months to a **Customer** except where permitted by the **Customer Service Code**, the **Trading Licence** or where the **Customer** has given **Verifiable Consent** to a longer **Billing Period**. Such **Bills** will include:

- (a) **Customers Supply Address**, relevant mailing address, name and account number;
- (b) 24 hour contact telephone number for faults and emergencies;
- (c) telephone number for **billing** and payment enquiries;
- (d) payment date for the **Bill**;
- (e) **Bills** will include dates of the **meter** reading or estimates at the end of the **Billing Period**;
- (f) **Meter** reading or estimate at the end of the **Billing Period**;
- (g) number of energy **units** (e.g. **Unit**, or gigajoules) of **Gas** used or estimated to be used during the **Billing Period**;
- (h) **Price** or **Prices** (including separate itemisation of the fixed and usage components, where applicable) which apply to the supply of **Gas** to the **Customer**;
- (i) the **Meter Equipment** number or property number;
- (j) amount due;
- (k) GST component payable on the supply of **Gas** to the **Customer**;
- (l) any other **Fees** for the **Billing Period** and details of the service(s) provided;
- (m) amount of arrears or credit;
- (n) **Interest Rate** charged on any arrears;
- (o) summary of the payment methods as set out in clause 9;
- (p) if the **Customer** is paying the residential **Price**, reference to any concessions available to the **Customer** from **Kleenheat** or concessions available from the Government;
- (q) availability, upon payment of a charge, of **Meter Equipment** testing and the refund of the testing charge if the **Meter Equipment** is found to be inaccurate;
- (r) availability of interpreter services;
- (s) telephone number if the **Customer** is experiencing financial difficulties;
- (t) the details of any **Refundable Advance** paid by the **Customer** to **Kleenheat**;
- (u) any applicable **Minimum Annual Bill** charge; and
- (v) any other information required by the **Customer Service Code** or **Kleenheat** deems relevant.

5.2 Other Goods and Services

If **Kleenheat** provides goods or services in addition to those listed in clause 2, it may render an invoice for those goods or services separately. If **Kleenheat** chooses not to **Bill** separately, unless **Kleenheat** and the **Customer** have agreed to different terms and conditions, **Kleenheat** shall:

- (a) include the charges for such goods and services as separate items in its **Bills**, together with a description of these goods and services;
- (b) apply payments received from the **Customer** as directed by the **Customer**; and
- (c) if the **Customer** does not direct how the payment is to be allocated, **Kleenheat** shall apply it to the charges referred to in clause 2 above before applying any portion of it to such goods or services.

5.3 Failure to Pay

A failure by the **Customer** to pay the total amount of a **Customer's Bill** by the due date will entitle **Kleenheat** to:

- (a) charge interest on the amount that has not been paid, at the **Interest Rate**;
- (b) disconnect supply in accordance with clause 20 and charge a disconnection **fee**;
- (c) charge the **Customer** a **Fee** for each overdue notice sent to the **Customer** unless prohibited by the **Customer Service Code**; and
- (d) charge a reconnection **fee** if the supply of **Gas** to the **Customer** is disconnected due to a default by the **Customer** under this **Contract** and that default is remedied by the **Customer**.

Kleenheat may also shorten the **Customer's** billing cycle in accordance with the **Customer Service Code**.

5.4 Overcharging and Undercharging

- (a) If **Kleenheat** overcharges the **Customer** as a result of an error, defect or default for which **Kleenheat** or the **Network Operator** is responsible (including where a **Meter** has been found to be defective) then:
 - (1) **Kleenheat** will use best endeavours to tell the **Customer** within 10 **Business Days** after discovering the overcharging and give a correcting refund (without interest); and
 - (2) the **Customer** can choose whether the correcting refund is a credit to the account or a payment directly to the **Customer** (except where the amount of a correcting refund is less than \$75, in which case **Kleenheat** will automatically credit the amount to the account).
- (b) If **Kleenheat** undercharges the **Customer** as a result of an error, defect or default for which **Kleenheat** or the **Network Operator** is responsible (including where a **Meter** has been found to be defective) then:
 - (1) the correcting payment will only relate to errors up to 12 months before the most recent **Bill**; and
 - (2) the correcting payment will be shown as a separate item in the **Bill** with an explanation; and
 - (3) **Kleenheat** will not charge interest on the correcting payment.
- (c) The **Customer** can choose to pay the correcting payment by instalments. **Kleenheat** will not charge interest on the instalments.

5.5 Difficulties in Paying

If the **Customer** paying the residential **Price** notifies **Kleenheat** that it is experiencing difficulties in paying a **Bill** or requires payment assistance, **Kleenheat** will offer the **Customer** instalment payment options or additional time to pay a **Bill**, the right to have a **Bill** redirected to a third person, provide the **Customer** with information about and referral to Government assistance programs and information on independent financial counselling services.

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

5.6 Debt Collection

Kleenheat will provide a **Bill** after the end of each **Billing Period**. The **Customer** will pay in accordance with the due date specified on the **Bill**. Subject to any rights under the **Customer Service Code**, if the **Customer** fails to pay in accordance with the due date **Kleenheat** reserves the right to refer the **Bill** to a debt collection agency or solicitor for recovery. All reasonable costs, expenses and disbursements incurred by **Kleenheat** (including debt collection agency **fees** and legal costs) will be payable by the **Customer** on demand.

5.7 Billing Data

If a **Customer** requests and the data is available, **Kleenheat** shall provide to the **Customer**, free of charge, the **Customer's** historical **billing** data for the previous 2 years. Where the **Customer** requests historical **billing** data beyond the previous 2 years, **Kleenheat** may impose a reasonable charge for providing the data to recover the direct costs of providing the information.

5.8 Minimum Annual Bill

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

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

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

where

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

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

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

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

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

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

6 Basis of a Bill

6.1 Reading of Meter Equipment

Kleenheat shall:

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

7 Estimated Accounts

Where **Kleenheat** is unable to base a **Bill** on a reading of the **Meter Equipment** at the **Supply Address** because:

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

Kleenheat may provide the **Customer** with an estimated **Bill** based on:

- (f) the **Customers** reading of the **Meter Equipment**;
- (g) the **Customers** prior **Billing** history; or
- (h) where the **Customer** does not have a prior **Billing** history, the average usage of **Gas** at the relevant **Price**, the average usage for the type of **Gas** installation or the average usage at the **Supply Address**.

Where, because of circumstances referred to in clause 7(a)-(e), **Kleenheat** has provided the **Customer** with an estimated **Bill** and the **Meter Equipment** is subsequently read, **Kleenheat** shall include an adjustment on the next **Bill** in accordance with the **Meter Equipment** reading unless the estimated **Bill** was used to finalise the **Customers** account.

If the **Customer** has denied access to **Kleenheat** for the purposes of reading the **Meter Equipment** at the **Supply Address** and subsequently requests **Kleenheat** to replace an estimated **Bill** with a **Bill** based on a reading of the **Meter Equipment**, provided the **Customer** allows access to the **Meter Equipment**, **Kleenheat** shall comply with the request and may impose a reasonable charge for doing so.

8 Calculation of Consumption

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

Kleenheat may also calculate consumption through the measurement of **Gas** from a master meter and utilise other measurement devices to calculate **Bills** for individual usage of a product (where required).

9 Methods of Payment

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

- (a) paying in person;
- (b) paying by mail;
- (c) paying by direct debit; and
- (d) any other methods agreed by **Kleenheat**.

The **Plan Details** may limit or modify the methods of payment.

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

10 Security

Adequate **Security** may be required against future **Bills** before connection or continuation of supply. **Security** will only be required when:

- (a) the **Customer** is new to the **Supply Address** and does not have an established payment record at another **supply address**; or
- (b) the **Customer** is a new **customer** and does not have a credit rating; or
- (c) the **Gas** has been turned off in accordance with clause 20.2, under this **Contract** or a previous **Contract**.

The **Security** required is determined by **Kleenheat** and may be:

- (a) a direct debit deduction authority for **Kleenheat** to deduct payment for **Bills** from the **Customers** nominated credit card or bank account;
- (b) a cash deposit;
- (c) a bank guarantee; or
- (d) a **Refundable Advance**.

The amount of the **Refundable Advance** or bank guarantee shall be no greater than 2.5 times the average **Bill** in the case of monthly **billing**, and 1.5 times the average **Bill** in the case of quarterly **billing**. An average **Bill** shall be based on the consumption of similar business types or **Customers**.

The **Refundable Advance** will be kept in a separate trust account and separately identified in **Kleenheat** accounting records. Interest will accrue on the **Refundable Advance** at the **Bank Bill Rate**. Interest will accrue daily and will be capitalised every 90 days.

Kleenheat will only use the **Security** (plus any applicable accrued interest if permitted) to offset any amount owed to **Kleenheat**:

- (a) if the **Bill** has not been paid resulting in **Gas** being turned off at the **Customers Supply Address**; or
- (b) if the final **Bill** is not paid; or
- (c) if the **Bill** has not been paid but **Kleenheat** agrees to use the **Security** to avoid the need to turn the **Gas** supply off; or
- (d) at the request of the **Customer**, if the **Customer** is vacating the **Supply Address** or asks **Kleenheat** to turn **Gas** off at the **Supply Address**; or
- (e) to offset any amount owed to **Kleenheat** if the **Customer** transfers to another **Gas** supplier.

Where **Kleenheat** uses the **Security** in accordance with this clause, **Kleenheat** will provide the **Customer** with an account of its use and pay the balance (if any) of the **Refundable Advance** together with remaining interest to the **Customer** within 10 **Business Days**.

Where the **Customer** has provided a **Refundable Advance** as **Security** in accordance with this clause the amount of the **Refundable Advance** will be shown on the **Bill**.

11 Metering

11.1 Supply and Meter Equipment

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

11.2 Connections

Kleenheat will use its best endeavours to arrange supply to the **Customer** at a **Supply Address** within a period agreed by the **Customer** if:

- (a) there is adequate **Gas** supply available;
- (b) the **Gas** installation at the **Supply Address** complies with regulatory requirements; and
- (c) the **Meter Equipment** at the **Supply Address** is available for use by **Kleenheat**,
provided that:
 - (d) the **Customer** makes an application in a form acceptable to **Kleenheat** (the **Plan Details** may limit or modify the form of application) and provides acceptable identification as required by **Kleenheat**;
 - (e) the **Customer** agrees to pay **Kleenheat** all relevant **Fees**;
 - (f) the **Customer** provides contact details for **billing** purposes; and
 - (g) the **Customer** does not have an outstanding debt in relation to the **Gas** supplied by **Kleenheat** to the **Customer** other than a debt the subject of a dispute, or for which repayment arrangements have been made;

and where required by **Kleenheat**:

- (h) if the application is made for a rental property, the **Customer** provides contact details for the property owner or the owners agents;
- (i) the **Customer** satisfies **Kleenheat** that necessary safe, convenient and unhindered access to the **Supply Address**, the **Metering Equipment** and the **Gas** installation is available;

- (j) the **Customer** provides **Kleenheat** with information on the number and types of appliances installed, number of household occupants and anticipated usage of appliances;
- (k) the **Customer** will ensure that the notices of installation or completion of **Gas** installation work from a **Gas** installer are provided to **Kleenheat**;
- (l) the **Customer** has provided **Kleenheat** with estimated **Gas** load information for the **Customers** proposed use at the **Supply Address**;
- (m) any credit check of the **Customer** requested by **Kleenheat** is satisfactory to **Kleenheat**; and
- (n) the **Customer** has provided **Security** in accordance with clause 10.

Where the **Supply Address** has not previously been supplied with **Gas**, and **Kleenheat** and the **Customer** have not agreed a date on which supply of **Gas** will be available at the **Supply Address**, then **Kleenheat** will arrange for the **Network Operator** to connect the **Supply Address** within a reasonable time from the date of the **Customers** application.

11.3 Interference

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

12 Meter Reading

Subject to there being any proven inaccuracy in the **Meter Equipment**, the **Customer** acknowledges and agrees that the readings on the **Meter Equipment** taken by **Kleenheat**, the **Network Operator** or its nominee at the beginning and end of a **Billing Period**, is conclusive evidence of the volume of **Gas** the **Customer** has used during the **Billing Period**. In the event there is a proven inaccuracy in the **Meter Equipment**, **Kleenheat** will arrange for the **Network Operator** to change the **Meter** at no cost to the **Customer**, provided the inaccuracy was not caused by the **Customer**.

13 Meter Testing

The **Customer** may request the **Meter Equipment** be tested to establish whether there is any inaccuracy in the **Meter Equipment** readings. **Kleenheat** will use reasonable endeavours to respond to the **Customer** within 7 days of the date of receipt by **Kleenheat** of the request. If the **Meter Equipment** is found to be inaccurate, **Kleenheat** will:

- (a) arrange for the **Network Operator** to replace the **Meter Equipment** in accordance with clause 12 of this **Contract**;
- (b) adjust the **Customers** account for the amount of any undercharge or overcharge for the **Billing Period** in which the inaccuracy was proven, calculated in accordance with clause 5.4 of this **Contract**; and
- (c) not charge the **Customer** for testing the **Meter Equipment**.

If the **Meter Equipment** is not found to be inaccurate, or the inaccuracy is a result of the **Customer** interfering with or damaging the **Meter**, the **Customer** must pay a testing fee, as described in the **Customer Charter**.

14 Access to Supply Address

The **Customer** must provide safe and unrestricted access at the **Supply Address** to:

- (a) the **Meter Equipment**; and
- (b) the **Gas** installation for the purposes of inspection authorised by law.

If the **Customer** does not provide access as required under this clause, **Kleenheat** may, in addition to any other rights, suspend the supply of **Gas** to the **Customer**, in accordance with clause 20.

15 Customer to notify of Certain Matters

The **Customer** must promptly notify **Kleenheat** of:

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

16 Customer entering Supply Address

In relation to a new **Gas** connection, the **Customer** will be charged for **Gas** supplied at the **Supply Address** from the date and time that **Kleenheat** first commences **Gas** supply to the **Supply Address**. In relation to an existing **Gas** connection, if a final **Meter** reading has not been carried out on the day the previous **Customer** left the **Supply Address**, **Kleenheat** will estimate the **Customers Gas** usage and the previous **Customers Gas** usage and will endeavour to fairly share the charges between the **Customer** and the previous **Customer**.

17 Customer leaving Supply Address

17.1 Notice

The **Customer** must notify **Kleenheat** before it leaves the **Supply Address**. The **Customer** must give at least 5 **Business Days** notice of the date on which it intends to vacate the **Supply Address** and a forwarding address to which a final **Bill** may be sent.

17.2 Responsibility for Gas

- (a) Where the **Customer** has given notice of vacating the **Supply Address** in accordance with clause 17.1, **Kleenheat** may require the **Customer** to remain responsible for paying the **Gas** supplied to the **Supply Address** and otherwise remain responsible to **Kleenheat** in respect of the supply to the date notified unless the **Customer** can demonstrate to **Kleenheat** that it was forced to vacate the **Supply Address** earlier.
- (b) If the **Customer** does not give notice in accordance with clause 17.1 **Kleenheat** may require the **Customer** to remain responsible for paying for the **Gas** supplied to the **Supply Address** and otherwise remain responsible to **Kleenheat** in respect of the supply up until the earlier of:
 - (1) 5 days after notice is given;
 - (2) **Kleenheat** becomes aware that the **Customer** has vacated the **Supply Address** and ceases supply of **Gas** to the **Supply Address**;
 - (3) a new **Customer** commences to take supply at the **Supply Address**; or
 - (4) the date that the **Customer** provides notice that the **Customer** was forced to vacate the **Supply Address**.

17.3 New Customer

If the **Customer** leaves the **Supply Address** and another **Customer** enters into a **Contract** with **Kleenheat** for the **Supply Address**, the **Customer** is not required to pay for any **Gas** supplied at the **Supply Address** after the time when the new **Customer's** obligations to pay for **Gas** supplied under the new **Contract** takes effect.

17.4 Final Charges

The final charge payable by the **Customer** will be determined according to a final reading of the **Meter Equipment**. If a final reading is not performed on the day the **Customer** leaves the **Supply Address**, **Kleenheat** will estimate the **Customer's Gas** usage and the new **Customer's Gas** usage and endeavour to fairly share the charge between the **Customer** and the new **Customer**. **Kleenheat** may charge a **Fee** for a final reading of the **Meter Equipment**.

18 Inability of Kleenheat to Supply

If, for any cause outside the reasonable control of **Kleenheat**, **Kleenheat** is prevented or rendered unable to supply the **Customer** with **Gas** or comply with any other obligation under this **Contract**, that obligation will be suspended for the duration of the circumstances preventing **Kleenheat** from performing its obligations under this **Contract** (Suspension Period). Without limiting its other rights under this **Contract**, during the Suspension Period **Kleenheat** will not be liable to the **Customer** for any loss or damage suffered by the **Customer** as a result of **Kleenheat** inability to supply. The Suspension Period will end when the cause of **Kleenheat** inability to supply is rectified or the cause becomes within the control of **Kleenheat**. Upon the cessation of the Suspension Period, **Kleenheat** will, as soon as is reasonable, resume supply under this **Contract**.

19 Matters beyond the control of the Customer or Kleenheat

If some matter, other than a failure to pay its **Bill** by the due date, were to happen outside the reasonable control of the **Customer** which causes the **Customer** to be unable to comply with this **Contract**, the **Customer** must notify **Kleenheat** immediately and **Kleenheat** will excuse that non-compliance for as long as the matter beyond the reasonable control of the **Customer** continues to prevent compliance by the **Customer**.

The **Customer** must still pay its **Bill** by the due date shown on the **Bill**, even if some matter were to happen outside the reasonable control of the **Customer**.

If some matter were to happen outside the reasonable control of **Kleenheat** which causes **Kleenheat** to be unable to comply with this **Contract**, the **Customer** will excuse that non-compliance for as long as the matter which is beyond the reasonable control of **Kleenheat** continues to prevent compliance by **Kleenheat**.

20 Disconnection of Supply

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

20.1 Disconnection at the Customer's Request

The **Customer** may request **Kleenheat** to arrange the disconnection of the **Supply Address** by giving not less than 5 **Business Days** prior written notice to **Kleenheat**. **Kleenheat** will use its best endeavours to arrange disconnection of supply and finalise the **Customer's** accounts in accordance with the **Customer's request**.

20.2 Disconnection for Unpaid Bills

(a) Notice

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

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

(b) Circumstances in which **Kleenheat** may disconnect

Subject to this clause 20, **Kleenheat** may disconnect supply to the **Supply Address** or may notify the **Network Operator** that it no longer supplies **Gas** to the **Customer** at the **Supply Address** if the **Customer** has not:

- (1) paid any amount owing to **Kleenheat** by the due date;
- (2) agreed to an offer of an instalment plan or other payment option to pay; or
- (3) adhered to the **Customer's** obligations to make payments in accordance with an agreed payment plan relating to the **Price** or other **Fee** incurred at the current **Supply Address** or any previous **Supply Address**.

When **Kleenheat** notifies the **Network Operator** that it no longer supplies **Gas** to the **Customer** at the **Supply Address**, the **Network Operator** may disconnect the **Supply Address** without further notice to the **Customer**.

(c) **Customers** who qualify for the residential **Price**

Where a **Customer** who qualifies to pay the residential **Price**, because of a lack of sufficient income or other means on the part of that **Customer**, is unable to pay **Kleenheat** residential **Price** or other **Fee**, **Kleenheat** shall not disconnect the **Gas** supply to the **Supply Address** or notify the **Network Operator** that it no longer supplies **Gas** to the **Customer** at the **Supply Address** until:

- (1) **Kleenheat** has:
 - (A) offered the **Customer** alternative payment options of the kind referred to in the **Customer Service Code** and outlined in clause 5.5;
 - (B) given the **Customer** information on government funded concessions as outlined in the **Customer Service Code** and clause 5.5;
 - (C) used its best endeavours to contact the **Customer** personally, or by facsimile or mail or email, or by telephone; and
- (2) the **Customer** has:
 - (A) refused or failed to accept the offer within the time specified by **Kleenheat**; or
 - (B) accepted the offer, but has refused or failed to take any reasonable action towards settling the debt within the time specified by **Kleenheat**.
 - (C) **Customers** who do not qualify for the residential **Price**

Kleenheat shall not disconnect the supply to a business **Customer's Supply Address** or notify the **Network Operator** that it no longer supplies **Gas** to the **Customer** at the **Supply Address** unless:

- (1) **Kleenheat** has:
 - (A) offered the **Customer** additional time to pay a **Bill** (which may include a requirement to pay interest at the **Interest Rate** on that amount during the period of additional time);
 - (B) used its best endeavours to contact the **Customer** personally, or by mail, or by telephone; and
- (2) the **Customer** has:
 - (A) refused or failed to accept the offer within a time (not less than 5 **Business Days**) specified by **Kleenheat**; or
 - (B) accepted the offer (if applicable), but has refused or failed to take any reasonable action towards settling the debt within a time (not less than 5 **Business Days**) specified by **Kleenheat**.

20.3 Disconnection for Denying Access to the Meter Equipment

Where the **Customer** fails to provide access to the **Supply Address** or **Kleenheat** or the **Network Operator** is denied access to the **Supply Address** for the purposes of reading the **Meter Equipment** for the purposes of issuing 3 consecutive **Bills** in the **Customer's** billing cycle, **Kleenheat** may disconnect **Gas** supply to the **Supply Address** or may notify the **Network Operator** that it no longer supplies **Gas** to the **Customer** at the **Supply Address**.

However, **Kleenheat** will not disconnect or notify the **Network Operator** unless it has:

- (a) given the **Customer** an opportunity to offer reasonable alternative access arrangements;
- (b) on each of the occasions it was denied access, given to the **Customer** written notice in accordance with the **Customer Service Code** advising of the next date of the **Meter** reading, requesting access to the **Meter Equipment** at the **Supply Address** and advising of **Kleenheat's** ability to arrange for disconnection if the **Customer** fails to provide access;

- (c) used its best endeavours to contact the **Customer** personally or by facsimile or mail, or by telephone; and
- (d) given the **Customer**, by way of a written disconnection warning notice, 5 **Business Days** notice of its intention to disconnect the **Customer** (the 5 days shall be counted from the **Date of Receipt** of the disconnection warning notice).

20.4 Disconnection for Emergencies

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

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

20.5 Disconnection for Health and Safety Reasons

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

- (a) given the **Customer** written notice of the reason;
- (b) where the **Customer** is able to do so, allowed the **Customer** 5 **Business Days** to remove the reason (the 5 days shall be counted from the **Date of Receipt** of the notice); and
- (c) on the expiry of those 5 **Business Days**, given the **Customer**, by way of a disconnection warning notice, another 5 **Business Days** notice of its intention to disconnect the **Customer** (the 5 days shall be counted from the **Date of Receipt** of the disconnection warning notice).

20.6 Disconnection for Planned Maintenance

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

20.7 Disconnection for Unauthorised Utilisation

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

20.8 Disconnection for Refusal to Pay Refundable Advance

Kleenheat may disconnect supply to the **Supply Address** or notify the **Network Operator** that it no longer supplies **Gas** to a **Customer** at a **Supply Address**, where the **Customer** refuses to pay a **Refundable Advance**.

Kleenheat will not exercise its right to disconnect or notify the **Network Operator** that it no longer supplies **Gas** to a **Customer** at a **Supply Address**, for failure to pay a **Refundable Advance**, unless **Kleenheat** has given the **Customer** not less than 5 **Business Days** written notice of its intention to disconnect or give notice to the **Distributor** (the 5 days shall be counted from the **Date of Receipt** of the notice).

20.9 When Kleenheat will not Disconnect

Kleenheat will not disconnect supply to the **Supply Address** or notify the **Network Operator** that it no longer supplies **Gas** to the **Customer** at the **Supply Address**:

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

20.10 Customer Assistance

The **Customer** must assist **Kleenheat** to disconnect supply and acknowledges, in accordance with the ownership, rights and obligations prescribed in clause 11.1, and gives **Kleenheat** and the **Network Operator** permission to enter the **Supply Address** to remove any property

specified under this **Contract** which belongs to **Kleenheat** or the **Network Operator**. The **Customer** must pay all reasonable costs associated with the disconnection of the supply of **Gas** to the **Customer**, including but not limited to the **Fee** referred to in clause 20.12, regardless of whether the election was by the **Customer** or **Kleenheat** and for whatever reason, provided that the **Customer** will not be required to pay for the cost of a disconnection where the disconnection occurs under clauses 20.4, 20.5 or 20.6.

20.11 Disconnection by Law

Where **Kleenheat** is required by law to reduce supply to a **Customer**, the **Customer** must use less **Gas**. If **Kleenheat** is required by law to disconnect **Gas** supply to the **Supply Address**, the **Customer** must stop using **Gas**. There is no **Fee** for disconnection and reconnection of **Gas** supply in either of those cases.

20.12 Fees

Where a **Customer** is disconnected under this **Contract**, **Kleenheat** or the **Network Operator** may remove or physically disconnect the **Meter**. **Kleenheat** may charge a **Fee** for this but will not charge a **Fee** where the disconnection occurs under clauses 20.4, 20.5, 20.6, or 20.11.

21 Reconnection after Disconnection

21.1 Reconnection Circumstances

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

- (a) within 10 **Business Days** after disconnection for non-payment of a **Bill**, the **Customer** pays the overdue amount or makes an arrangement for its payment;
- (b) within 10 **Business Days** after disconnection for denial of access to the **Meter Equipment**, the **Customer** provides access to the **Meter Equipment**;
- (c) within 10 **Business Days** after disconnection for unlawful consumption of **Gas**, the **Customer** pays for the **Gas** consumed;
- (d) within 10 **Business Days** after disconnection for refusal to pay a **Refundable Advance**, the **Customer** pays the **Refundable Advance**; or
- (e) within 20 **Business Days** after disconnection in any **Emergency** for health, safety or maintenance reasons, the situation or problem giving rise to the need for disconnection has been rectified, and the **Customer** requests reconnection and pays any applicable reconnection **fee**. **Kleenheat** will not charge a **Fee** where the disconnection occurred under clauses 20.4, 20.5 or 20.6

21.2 Timing

If **Kleenheat** is under an obligation to arrange for reconnection of a **Customer** and the **Customer** makes a request for reconnection and, if requested by **Kleenheat**, the **Customer** pays **Kleenheat** reconnection **fee** (or enters into an instalment plan for that reconnection **fee**):

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

21.3 Fees

If the **Meter** has been removed or physically disconnected due to the disconnection of the **Customer**, **Kleenheat** may charge a **Fee** for replacing or physically reconnecting the **Meter** but will not charge a **Fee** where the disconnection occurs under clauses 20.4, 20.5, 20.6 or 20.11.

22 Termination

22.1 Disconnection at Customers Request

This **Contract** is terminated if **Kleenheat** procures the disconnection of the **Supply Address** at the **Customers** request (other than an agreed temporary disconnection).

22.2 Termination by Notice

Where this **Contract** is for a **Fixed Term**, the **Customer** may terminate this **Contract** by giving not less than 20 **Business Days** prior written notice to **Kleenheat**. The **Customer** may be required to pay any **Fees** for early termination as set out in the **Plan Details**.

Where this **Contract** is not for a **Fixed Term** (including where the **Contract** is automatically renewed at the expiration of the **Fixed Term**), the **Customer** may terminate this **Contract** by giving not less than 3 **Business Days** prior written notice to **Kleenheat**.

22.3 Kleenheat Termination Rights

Without prejudice to any other right or remedy and in addition to any statutory or other right to suspend or cut off the supply of **Gas** to the **Supply Address**, subject to clause 22.4, **Kleenheat** may terminate this **Contract** with immediate effect if the **Customer**:

- (a) commits a substantial breach of this **Contract**;
- (b) becomes insolvent;
- (c) goes into liquidation; or
- (d) commits an act of bankruptcy.

Kleenheat may terminate this **Contract** by giving 10 **Business Days** written notice if the **Customer** commits a breach of this **Contract**, other than a substantial breach, and **Kleenheat** has:

- (a) a right to disconnect supply under this **Contract**, a written law or a **Relevant Code**; and
- (b) disconnected supply at all **Supply Addresses** of the **Customer** covered by this **Contract**.

22.4 When Termination Takes Effect

Despite any other provision of this **Contract**, the termination of this **Contract** by **Kleenheat** or the **Customer** does not have effect until:

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

22.5 Events Upon Termination

If this **Contract** is terminated:

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

22.6 Cooling-off Period

In addition to the **Customers** rights under the **Contract** the **Customer** can end the **Contract** by giving **Kleenheat** notice that the **Customer** wants the **Contract** to end within the **Cooling-off Period**.

Kleenheat will not supply the **Customer** with **Gas** during the **Cooling-off Period**, unless the **Customer** requests supply.

If, at the **Customers** request, **Kleenheat** supplies **Gas** to the **Customer** during the **Cooling-off Period** and the **Customer** ends the **Contract** during the **Cooling-off Period**, **Kleenheat** may charge the **Customer** for any **Gas** and associated services supplied to the **Customer** during this period.

22.7 Duration

This **Contract** will come into effect on the **Acceptance Date**. Subject to acceptance by **Kleenheat** of the **Customers** request for the supply of **Gas** and to the terms of this **Contract**, **Kleenheat** will commence the supply of **Gas** on and from the **Supply Date**.

This **Contract** will continue for the **Contract Term**, unless terminated earlier in accordance with this clause 22.

Where this **Contract** is for a **Fixed Term**, **Kleenheat** must give the **Customer** notice, not more than 2 months and not less than 1 month before the end of the **Fixed Term** of:

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

22.8 Survival of Obligations

Termination of the **Contract** does not release either party from an obligation which arose before the **Contract** was terminated.

Notwithstanding termination, the **Customers** obligations under this **Contract** prior to termination continue until **Kleenheat** has received all money payable to it in relation to this **Contract** and specifically, subject to clause 17 and **Kleenheat** obligations under the **Customer Service Code**, the **Customer** remains liable to pay for all **Gas** delivered to the **Supply Address** and related **Fees** and charges after termination.

23 Title and Risk

Title to and risk in all the **Gas** supplied to the **Supply Address** will pass to the **Customer** at the **Delivery Point** for the **Supply Address** and the **Customer** will bear all loss or damage arising out of or in any way directly or indirectly connected with **Gas** supplied after title and risk to the **Gas** has passed to the **Customer**.

24 Exclusions

24.1 No Warranty

The Competition and Consumer Act 2010 (Cth) (including the Australian Consumer Law) (CCA) as well as State and Territory laws provide for certain guarantees and gives the **Customer** other legal rights, in relation to the supply of goods and services from **Kleenheat**. These rights and guarantees cannot be modified nor excluded by any **Contract**. Nothing in this **Contract** purports to modify or exclude the guarantees and other legal rights, under the CCA and other laws. Except as expressly set out in this **Contract** and the CCA, **Kleenheat** makes no additional express guarantees, warranties or other representations under this **Contract**. **Kleenheat** liability in respect of these guarantees is limited to the fullest extent permitted by law.

24.2 Consequential Loss

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

25 Indemnity of Kleenheat

To the fullest extent permitted by law, the **Customer** indemnifies **Kleenheat** against all expenses, losses, damages and costs that **Kleenheat** may sustain or incur as a result of a claim by any person (including the **Customer**) arising out of or connected with the **Gas** supplied by **Kleenheat** or any breach by the **Customer** of this **Contract** except to the extent attributable to **Kleenheat** negligence.

26 Notices and Information

Any notice given to a party must be in writing and delivered by facsimile, email or prepaid letter to the number or address of that party set out in this **Contract** for such purposes (or such other address as the party may by notice substitute) and will be considered to have been received on the **Date of Receipt**. **Kleenheat** has the ability to communicate electronically with the **Customer**, but will not do so, unless the **Customer** agrees.

27 Complaints and Disputes

A **Customer** may:

- (a) make a complaint to **Kleenheat** about **Kleenheat** acts or omissions; and
- (b) if the **Customer** is not satisfied with **Kleenheat** response to the complaint, raise the complaint to a higher level within **Kleenheat** management structure; and
- (c) if after raising the complaint to a higher level, the **Customer** is not satisfied with **Kleenheat** response, refer the complaint to the **Energy Ombudsman**, as appropriate.

Kleenheat will handle **Customer** disputes and complaints in accordance with the Australian Standard on Complaints Handling (AS/NZS 10002:2014) 1995, **publish** information which will assist the **Customer** in utilising its complaints handling process and on request will provide the **Customer** with information on its complaints handling process and the **Energy Ombudsman** scheme of which **Kleenheat** is a member.

28 Amendment of Contract

Kleenheat may amend, delete or introduce any term or condition of this **Contract**. **Kleenheat** does not require the **Customers** consent to amend this **Contract**, but will notify the **Customer** of any amendment to the **Contract**. If the **Customer** does not agree with any amendment to this **Contract**, the **Customer** may terminate this **Contract** in accordance with clause 22.

29 Availability of Contract

A copy of this **Contract** or any of the documents referred to in this **Contract** are available to the **Customer**, free of charge, from **Kleenheat** upon the **Customers** request or by visiting **Kleenheat** website at www.kleenheat.com.au

30 Access to Information

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

31 Confidentiality and Privacy

31.1 Confidentiality

Kleenheat will keep confidential a **Customers** information in accordance with the **Customer Service Code**, unless:

- (a) the **Customer** gives **Kleenheat** prior written consent to disclose the information to a third party;
- (b) disclosure is required to comply with any accounting or stock exchange requirement (such information disclosed will, as far as possible, be in an aggregated form);
- (c) disclosure is required to comply with any legal or regulatory requirement, or in the course of legal or other proceedings or arbitration;

- (d) the information is already in the public domain; or
- (e) **Kleenheat** believes the **Customer** has used **Gas** illegally and must provide **Customer** information to the **Economic Regulation Authority** or the Director of Energy Safety or the Police.

31.2 Privacy

Kleenheat will only use and disclose **Customers** personal information as permitted by the Privacy Act 1988 (Cth) and National Privacy Principles, and in accordance with **Kleenheat** privacy policy, a copy of which is available on **Kleenheat** website. **Kleenheat** has security measures in place to protect personal information under its control. **Kleenheat** de-identifies and securely destroys personal information when it is no longer required and information stored within its computer systems can only be accessed by authorised personnel.

32 Successors and Assigns

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

33 Governing Law

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

34 Compliance with Laws

Each party's obligations under this **Contract** are subject to that party's obligations under applicable laws, regulations and conditions of any governmental authorisations. Any failure to comply with an obligation under this **Contract** resulting from compliance with an inconsistent or conflicting obligation under any applicable laws, regulations or conditions of any applicable governmental authorisation does not give rise to a breach of this **Contract**.

35 Severability

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

36 Waivers

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

37 Entire Contract

This **Contract** constitutes the entire **Contract** and understanding of the parties with respect to its subject matter. This clause operates to the extent permitted by law.

38 Electronic Communication

Kleenheat has the ability under the **Contract** to communicate electronically with the **Customer**. **Kleenheat** will agree with the **Customer** before engaging in electronic communication. **Kleenheat** can set any rules about how electronic communication is to operate and what things may be communicated electronically, and will inform the **Customer** how to find out what these rules are.

39 Network Operator

Kleenheat supplies **Gas** to the **Customer** and may or may not own or operate the **Network**. The **Network** is operated by the **Network Operator** who delivers the **Gas** through the **Network** to the **Supply Address** for **Kleenheat**. Where **Kleenheat** does not own the **Network**, **Kleenheat**:

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

40 Definitions

Acceptance Date means that date on which **Kleenheat** accepts a **Customer's** offer to acquire **Gas** from **Kleenheat** under this **Contract**.

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

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

Bank Bill Swap Rate means the average bid which is quoted on the BBSY screen of Reuters on the day and advertised in the Australian Financial Review the following **Business Day**.

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

Billing Period means the period referred to in clause 5.1.

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

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

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

Contract Term means the term of the **Contract** set out in the **Plan Details** and starting at 8:00am on the **Acceptance Date**.

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

Customer means the person to whom **Gas** is or will be supplied under the **Contract**.

Customer Charter means the **Customer Charter** prepared by **Kleenheat** for use in Western Australia.

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

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

- (a) in the case where **Kleenheat** hands the notice to the **Customer**, the date **Kleenheat** does so;
- (b) in the case where **Kleenheat** leaves the notice at the **Supply Address**, the date **Kleenheat** does so;
- (c) in the case where **Kleenheat** gives the notice by post, a date 2 **Business Days** after the date **Kleenheat** posted the notice; and
- (d) unless otherwise notified by **Kleenheat** in accordance with clause 38, in the case where **Kleenheat** gives the notice by email, the date on which **Kleenheat** computer or other device from which the email was sent records that the email was successfully transmitted.

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

Disconnection Warning means a written notice in accordance with the **Customer Service Code** advising the **Customer** that disconnection will occur unless payment is made by the date specified in the notice. That date must be at least 10 **Business Days** after the date the **Disconnection Warning** is given.

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

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

Economic Regulation Authority means the body established by the Economic Regulation Authority Act 2003.

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

Energy Ombudsman means the person approved by the **Economic Regulation Authority** under section 11ZPZ(1) of the Energy Coordination Act.

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

Fixed Term means any fixed **Contract Term** set out in the **Plan Details** (if applicable) starting from 8:00am on the **Acceptance Date**.

Gas means **gas** as that term is defined in the **Gas Standards Act 1972 (WA)**.

Gas Marketing Code of Conduct means the **Gas Marketing Code of Conduct 2012** as amended or replaced from time to time.

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

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

Kleenheat means Wesfarmers **Kleenheat Gas Pty Ltd** (ABN 40 008 679 543) a company incorporated in Western Australia and having its registered office at 11th Floor, 40 The Esplanade, Perth, Western Australia, 6000.

Medical Practitioner means an individual registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession.

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

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

Minimum Annual Bill means, in respect of a **Contract Year**, the amount referred to in Clause 5.8.

Network means a distribution system (as defined in the Energy Co-ordination Act 1994 (WA)).

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

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

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

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

Publish means to advertise in the West Australian newspaper, place details on **Kleenheat** website and send the **Customer** a notice or as otherwise agreed with the **Economic Regulation Authority**.

Where required by law, **Kleenheat** will also put a notice in the Government Gazette.

Refundable Advance means an amount of money or other arrangements acceptable to **Kleenheat** as **Security** against the **Customer** defaulting on the payment of a **Bill**.

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

Relevant Codes means any codes and standards applying to the supply of **Gas** under the **Contract** including the **Customer Service Code**, the **Gas Marketing Code of Conduct**, and the Australian Standard on Complaints Handling [AS ISO 10002:2006].

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

Retail Market Rules is defined in section 11ZOA of the Energy Coordination Act 1994.

Security has the meaning as described in Clause 10.

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

Supply Date means the date on which **Kleenheat** will commence supply of **Gas** to the **Supply Address**, being the date of the next scheduled

Meter reading for the **Supply Address** unless otherwise agreed and set out in the **Plan Details**.

Trading Licence means **Kleenheat Trading Licence** under the Energy Coordination Act 1994.

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

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

41 Kleenheat Contact Details

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Registered Address: Level 11, 40 The Esplanade, Perth, Western Australia, 6000
Telephone number: 13 21 80
Email (for home): nghome@kleenheat.com.au
Email (for business): ngbusiness@kleenheat.com.au
Website: www.kleenheat.com.au