



**GAS RETAIL LICENCE**

**Agora Retail Pty Limited**  
**ACN 612 806 381**

**8 March 2019**

RM – C/19/3908

## **GAS RETAIL LICENCE**

This Licence is issued pursuant to section 26 of the *Gas Industry Act 2001* (Vic) and is subject to the terms set out in this Licence.

### **Date**

This Licence was issued on 8 March 2019 and has been varied on the dates set out in Schedule 1.

### **Licensee**

This Licence is issued to:

**Agora Retail Pty Limited (ACN 612 806 381)** (the Licensee)

Level 8  
10 Queen Street  
Melbourne  
VIC 3000

**THE COMMON SEAL of the  
ESSENTIAL SERVICES COMMISSION**  
was affixed pursuant to the authority  
of the Commission

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Ron Ben-David

**CHAIRPERSON**

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## Part A - Interpretation

### 1. Definitions

1.1. Unless the contrary intention appears, a term has the meaning shown opposite it :

<b>Act</b>	the <i>Gas Industry Act 2001</i> (Vic)
<b>administrator</b>	means an administrator appointed by the Commission under section 41 of the Act in respect of the Licensee's retail business
<b>AEMO</b>	Australian Energy Market Operator Limited
<b>AER</b>	the Australian Energy Regulator
<b>Business Day</b>	a day other than a Saturday, Sunday or a public holiday in Melbourne, Victoria
<b>change of control</b>	<p>a change of control occurs if a shareholder of an entity, at the time it becomes a shareholder:</p> <ul style="list-style-type: none"> <li>(a) does not have the capacity to control the composition of the board of directors of the entity or a holding company of that entity;</li> <li>(b) is not in a position to cast or control the casting of more than 50% of the maximum number of votes that might be cast at a general meeting of that entity or a holding company of that entity; or</li> <li>(c) does not beneficially hold more than 50% of the issued share capital of the entity or a holding company of that entity,</li> </ul> <p>subsequently has the ability to do so, or does so, provided that no change of control will be deemed to have occurred where:</p> <ul style="list-style-type: none"> <li>(d) the ultimate holding company of that entity remains the same as its ultimate holding company (if any) on the date upon which the shareholder first became a shareholder; or</li> <li>(e) the change of control results from the acquisition or cancellation of, or dealing in, securities which are traded on a recognised financial market</li> </ul>
<b>Commission</b>	the Essential Services Commission established under the ESC Act
<b>control</b>	in respect of an entity has the same meaning given in section 50AA of the Corporations Act
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth)

<b>customer</b>	a person who may buy gas from a retailer and includes another retailer
<b>deemed contract</b>	a contract for the supply or sale of gas deemed by the Act to have been entered into or to otherwise be in place between a retailer and customer
<b>default use of system agreement</b>	The most recent default use of system agreement submitted by a distributor and approved by the Commission under the distributor's distribution licence
<b>distribution licence</b>	a licence to distribute or supply gas granted under the Act
<b>distribution services</b>	the transportation and delivery of gas through a distribution system and any other services which a distributor includes in its network tariff
<b>distribution system</b>	the meaning given to 'gas distribution system' in the Act
<b>distributor</b>	a person who holds, or is exempt from holding, a distribution licence
<b>domestic or small business customer</b>	in relation to the Licensee and a supply of gas from a supply point, has the same meaning as in any relevant Order
<b>Energy Retail Code</b>	means the code setting out terms and conditions relevant to contracts for the supply or sale of gas determined by the Commission under the Act and the ESC Act
<b>Enforcement Order</b>	a provisional enforcement order or a final enforcement order made and served by the Commission under section 53 of the ESC Act
<b>ESC Act</b>	the <i>Essential Services Commission Act 2001</i> (Vic)
<b>Exemption Order</b>	an Order in Council made under section 24 of the Act
<b>Final Enforcement Order</b>	a final order made and served by the Commission under section 53 of the ESC Act
<b>Gas Distribution System Code</b>	The code of that name certified by the Commission
<b>guideline</b>	a guideline published by the Commission
<b>Holding Company</b>	means, in relation to an entity, an entity of which the first entity is a subsidiary
<b>hot water metering installation</b>	a metering installation and associated equipment at a supply point which measures and records the flows of gas and hot water, consisting at a minimum of a gas metering installation, two or more hot water meters and a master cold water meter



<b>large customer</b>	in relation to the supply of gas from a supply point, a person whose aggregate consumption of gas taken from a supply point has been or, in the case of a new supply point, is likely to be, 1000 gigajoules or more in any year commencing on or after 1 September 2000
<b>last resort event</b>	in respect of a retailer, means: <ul style="list-style-type: none"> <li>(a) the retailer's retail licence is suspended or revoked; or</li> <li>(b) the right of the retailer to acquire gas from the wholesale gas market is suspended or terminated, whichever occurs first</li> </ul>
<b>licensee</b>	Agora Retail Pty Limited (ACN 612 806 381)
<b>meter</b>	has the meaning given in the Act
<b>Minister</b>	the person who is, from time to time, the Minister for the purposes of the relevant section of the Act
<b>MIRN</b>	the unique identifier for a gas metering installation allocated and registered under the Retail Market Procedures within the meaning of the National Gas (Victoria) Law
<b>National Gas Law</b>	The National Gas (Victoria) Law which applies in Victoria as a result of the operation of section 6 of the National Gas (Victoria) Act 2005
<b>National Gas Rules</b>	the rules of that name made under the National Gas Law
<b>objectives</b>	the objectives of the Commission under the Act and the ESC Act
<b>Order</b>	an Order in Council made or in force under the Act
<b>other retailer</b>	in respect of a customer and a last resort event, means the retailer that, immediately prior to the occurrence of the last resort event in respect of the retailer, sold gas to the customer
<b>provisional enforcement order</b>	a provisional order made and served by the Commission under section 53 of the ESC Act
<b>subsidiary</b>	has the meaning given in the Corporations Act
<b>Ultimate Holding Company</b>	means, in relation to an entity, an entity that: <ul style="list-style-type: none"> <li>(a) is a holding company of the first-mentioned entity; and</li> <li>(b) is itself a subsidiary of no entity</li> </ul>
<b>relevant customer</b>	in relation to gas from a supply point, has the same meaning as in any relevant Order

<b>retail business</b>	the business that a retailer carries on under its retail licence or exemption granted under the Act
<b>retail gas market rules</b>	Rules governing the retail gas market as defined in the National Gas (Victoria) Law
<b>retail licence</b>	a licence, granted under the Act, authorising the holder thereof to sell gas
<b>retailer</b>	a person who holds or is exempt from holding a retail licence
<b>supply point</b>	a point on a distribution system at which gas is withdrawn from the distribution system for delivery to a customer which is normally located at: <ul style="list-style-type: none"> <li>(a) the inlet of a natural gas installation of a customer; or</li> <li>(b) the outlet of a meter; or</li> <li>(c) the end of a main</li> </ul>
<b>undertaking</b>	an undertaking given by the Licensee under section 53(5)(a) of the ESC Act
<b>use of system agreement</b>	an agreement between a retailer (or other person who has made an application for a retail licence) and a distributor which is necessary to ensure that, subject to the Act, gas is distributed or supplied by means of the distributor's distribution system to the extent necessary to enable the retailer (or other person) to sell gas to its customers
<b>wholesale gas market</b>	means a market for wholesale trading in gas operated by AEMO under the National Gas Rules
<b>writing</b>	any mode of representing or reproducing words, figures, drawings or symbols in a visible form

1.2. In this Licence, unless the context otherwise requires:

- a. headings and footnotes are each for convenience only and do not affect the interpretation of this Licence;
- b. words importing the singular include the plural and vice versa;
- c. words importing a gender include any gender;
- d. an expression importing a natural person includes any company, partnership, trust, joint venture, association, corporation or other body corporate and any governmental agency;
- e. a reference to a condition, clause, or part is to a condition, clause, or part of this Licence;

- f. a reference to any statute including the Act and regulation, proclamation, Order in Council, ordinance, code, guideline, procedure or by-law includes all statutes, regulations, proclamations, Orders in Council, ordinances, codes, guidelines, procedures or by-laws varying, consolidating, re-enacting, extending or replacing them and a reference to a statute includes all regulations, proclamations, Orders in Council, ordinances, by-laws and determinations issued under that statute;
- g. a reference to a document or a provision of a document includes an amendment or supplement to, or replacement or novation of, that document or that provision of that document;
- h. a reference to a person includes that person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and permitted assigns;
- i. other parts of speech and grammatical forms of a word or phrase defined in this Licence have a corresponding meaning;
- j. a period of time:
  - 1. which dates from a given day or the day of an act or event is to be calculated exclusive of that day; or
  - 2. which commences on a given day or the day of an act or event is to be calculated inclusive of that day;
- k. an event which is required under this Licence to occur on or by a stipulated day which is not a business day may occur on or by the next business day.

## **2. Notices**

2.1. A notice under this Licence is only effective if it is in writing, and dealt with as follows:

- a. if given by the Licensee to the Commission – addressed to the Chief Executive Officer of the Commission at the address specified below or as otherwise notified by the Commission

Essential Services Commission,  
Level 37, 2 Lonsdale Street,  
Melbourne VIC 3000; or

- b. if given by the Commission to the Licensee – given by the Chief Executive Officer of the Commission and addressed (and marked for attention of) the Chief Executive Officer of the Licensee at the address specified below or as otherwise notified by the Licensee:

Agora Retail Pty Limited,  
PO Box 520  
Northbridge  
Western Australia 6865

A notice is to be:



- c. signed by or on behalf of the person giving the notice and delivered by hand; or
  - d. signed by or on behalf of the person giving the notice and sent by pre-paid post; or
  - e. transmitted electronically by or on behalf of the person giving the notice by electronic mail or facsimile transmission.
- 2.2. A notice is deemed to be effected:
- a. if delivered by hand – upon delivery to the relevant address;
  - b. if sent by post – upon delivery to the relevant address;
  - c. if transmitted electronically – in accordance with the *Electronic Transactions (Victoria) Act 2000* (Vic).
- 2.3. A notice received after 5.00 pm, or on a day that is not a business day, is deemed to be effected on the next business day.

## Part B - Licence

### 3. Grant of the Licence

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- 3.1. In exercise of its powers under section 26 of the Act, the Commission grants the Licensee a licence to sell gas by retail on the terms and conditions set out in this Licence.
- 3.2. This Licence only permits the Licensee to sell gas to customers whose aggregate consumption of gas taken from a single supply point has been or, in the case of new supply point, is likely to be, 10,000 gigajoules or more in any year.
- 3.3. This Licence does not permit the Licensee to sell gas to domestic or small business customers.
- 3.4. This Licence is subject to any prohibition set out in any Order issued and in force under the Act.

### 3.5. Special conditions

- (A) The licence will take effect 28 days after the licensee provides confirmation to the commission that it has entered agreements to (a) procure gas from a gas producer/supplier that can be used to supply gas to Victorian consumers, and (b) to procure gas transmission services in Victoria, and copies of the agreements.
- (B) The licensee is required to provide the confirmation listed in special condition (A), within 24 calendar months from the grant of this licence.
- (C) The commission will provide correspondence to the licensee within 21 days of receipt of the agreements under (A) to confirm whether the licence has taken effect.

## Part C - Conditions of the Licence

### 4. Status of the requirements in this Part

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- 4.1. A breach of any of the requirements set out in this Part C:
- a. is a breach of a condition for the purposes of Part 7 of the ESC Act; and
  - b. is a breach of a condition for the purposes of clause 24 of this Licence.
- 4.2. The Licensee acknowledges that any condition deemed by the Act to be included in a licence to sell gas forms part of this Licence and that a breach of any such condition constitutes a breach of a condition for the purposes of clause 24 of this Licence.

### 5. Payment of fees

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- 5.1. The Licensee must pay a licence fee as determined by the Minister in accordance with the provisions of section 30 of the Act.

### 6. Ongoing technical capacity

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- 6.1. The Licensee must at all times maintain:
- a. such technical capacity as is:
    - 1. required to meet its obligations under this Licence; and
    - 2. reasonably required to undertake the activities authorised by this Licence; and
  - b. such additional technical capacity as is reasonably required to enable it to meet and utilise technological advances in the gas industry.
- 6.2. In this clause 6 activities undertaken pursuant to this Licence includes any activities of that type undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence.
- 6.3. The Licensee must ensure that any contract entered into with any third parties contains such provisions as are necessary to enable the Licensee to comply with the requirements of this clause 6.
- 6.4. The Licensee must ensure that all relevant staff are provided with appropriate training in all Victoria specific obligations including the conditions of this Licence.

## **7. Ongoing financial viability**

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- 7.1 The Licensee must at all times remain financially viable to undertake the licensed activity.

## **8. Reliability of supply**

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- 8.1. The Licensee must comply with any standard relating to the reliability of supply of gas which is determined by the Commission. If any standard is so determined, the Licensee must, whenever required by the Commission, demonstrate its actual and prospective compliance with such standard.
- 8.2. The Licensee must notify any relevant distributor (and AEMO as required) of the Licensee's contractual arrangements with the Licensee's customers relating to interruption or curtailment of supply within 21 business days of entering into such arrangements.
- 8.3. If the Licensee is notified by a distributor of any interruption or curtailment of delivery of gas at a distribution delivery point, the Licensee must use reasonable endeavours to ensure that its customers comply with any reasonable requirement set out in the notice.

## **9. Compliance with regulatory instruments**

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- 9.1. Subject to clause 9.2, the Licensee must comply with:
- a. the Gas Distribution System Code;
  - b. the Gas Safety Act 1997;
  - c. any Order;
  - d. the Energy Retail Code; and
  - e. any other code, procedure or guideline issued by the Commission from time to time that is expressed as being one with which the Licensee must comply,
- to the extent they are applicable to activities undertaken by the Licensee pursuant to this Licence.
- 9.2. The Commission may, from time to time, by written notice grant an exemption in relation to or otherwise modify the application of some of the requirements of the instruments referred to in clause 9.1.
- 9.3. The Licensee must have in place a system for monitoring its compliance with this Licence and the instruments referred to in clause 9.1.
- 9.4. The Licensee must comply with the National Gas Law and National Gas Rules.
- 9.5. The Licensee must notify the Commission of any breach by it of the conditions of this Licence, including breach of any of the instruments referred to in clause 9.1, as soon as reasonably practicable after it becomes aware of the breach.



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**10. Gas purchase arrangements**

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- 10.1. The Licensee must have in place agreements or arrangements for the purchase of gas through the wholesale gas market or otherwise and any necessary authorisations as are required to enable the Licensee to perform its obligations under any contracts for the sale of gas to which it is a party.
- 10.2. The Licensee is deemed to comply with clause 10.1 if it is registered with AEMO as a 'Customer' in accordance with the National Gas Rules.

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**11. Use of distribution system agreements**

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- 11.1. Subject to clause 11.4, the Licensee must have a use of system agreement with each distributor in whose distribution area the supply point of any customer of the Licensee is located. Each use of system agreement must be in writing.
- 11.2. If a distributor offers the Licensee a new form of default use of system agreement under clause 4.8 of its distribution licence, the Licensee must not unreasonably refuse to accept such an offer.
- 11.3. Any question as to whether a use of system agreement unreasonably discriminates, or has the effect of creating unreasonable discrimination, between retailers or between customers of any retailer, or whether a refusal to accept an offer of a new default use of system agreement is unreasonable, is to be decided by the Commission on the basis of the Commission's opinion on the matter.
- 11.4. If the Licensee is also a distributor, clause 11.1 does not require the Licensee to have a use of system agreement with itself. The Licensee instead must act on the notional basis that the Licensee's retail business has and must comply with a use of system agreement with the Licensee's distribution business. That notional use of system agreement must be in writing.
- 11.5. Clause 11.1 does not apply to the Licensee in respect of a distributor until 60 business days after the date on which the Commission first approved a default use of system agreement submitted to the Commission by the relevant distributor under its distribution licence.

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**12. Provision of distribution services**

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- 12.1. The Licensee must not enter into a contract for the sale of gas with a large customer unless:
- a. the contract also provides for the provision of, or procurement by the Licensee of, related distribution services;
  - b. the large customer has entered into an agreement with a licensed distributor for the provision of related distribution services; or
  - c. where the large customer takes an intermediary distribution or supply of gas (as defined in the Exemption Order) from a distributor exempt from the requirement to hold a distribution licence under the Exemption Order (the



'exempt distributor'), the contract provides for the provision or procurement by the Licensee of related distribution services as if the large customer were directly connected to the network of the distributor within whose distribution licence area the customer is located provided that the Licensee is in turn liable to that distributor for charges.

### **13. Contracts with customers**

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- 13.1. The Licensee must not enter into a contract for the sale of gas with a relevant customer unless the terms and conditions of the contract expressly deal with each matter which is the subject of a term or condition of the Energy Retail Code. If a term or condition of the Energy Retail Code is incorporated by reference into the contract, it is taken to be expressly dealt with.
- 13.2. Each term or condition of the Energy Retail Code is a term or condition with which a contract for the sale of gas to a relevant customer must not be inconsistent.<sup>1</sup>
- 13.3. The Licensee must comply with the terms and conditions of any contract for the sale of gas with a relevant customer.

### **14. Information to customers**

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- 14.1. The Licensee must include at least the following information in a bill issued to the customer for the supply or sale of gas:
  - a. the Metering Installation Reference Number (MIRN) (including the MIRN checksum) assigned to the customer's metering installation or, if there is no assigned MIRN, the meter number or another unique identifying mark assigned to the customer's metering installation;
  - b. the relevant tariff or tariffs applicable to the customer;
  - c. if the Licensee directly passes through network charges to the customer, the separate amount of the network charge; and
  - d. any information required by the Act, the ESC Act, or any Commission code or guideline.
- 14.2. If a variation is made to a customer's tariff or to terms or conditions of a customer's contract, unless prior notice of the variation has been provided to a customer, the Licensee must provide such notice to the customer in the form of a statement setting out details of the variation as soon as practicable and in any event no later than the customer's next bill.
- 14.3. Unless clause 19 applies, the Licensee must give notice to a customer who is a party to a deemed contract with the Licensee on, or as soon as practicable after, becoming aware of the deemed contract. This notice must:

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<sup>1</sup> For the purposes of section 43(1)(b) of the Act.

- a. inform the customer that there is deemed to be a contract between the customer and the Licensee for the supply and sale of gas;
- b. set out the tariff and summarise other terms and conditions under the deemed contract;
- c. describe the methods by which the deemed contract may be terminated and related terms and conditions; and
- d. outline the options available to the customer.

14.4. Where the Act or this licence requires or has required the Licensee to publish the Licensee's tariffs in the Government Gazette, the Licensee must also publish on the same day in a newspaper circulating generally in Victoria:

- a. the tariffs; and
- b. a statement that the Licensee's related terms and conditions are available on request and free of charge in English and, if the Licensee has a significant number of customers from the same non-English speaking background, in those other languages. Such terms and conditions must actually be available in those other languages.

14.5. If the contract between a customer and a retailer is a fixed term contract, prior to the expiry of the fixed term the retailer must notify the customer:

- a. that the contract is due to expire;
- b. when the expiry will occur;
- c. the tariff and terms and conditions that will apply to the customer beyond the expiry of the contract if the customer does not exercise any other option, which the retailer may determine at its discretion; and
- d. what other options are available to the customer.

The information must be given no sooner than two months before, and no later than one month before, the expiration of the fixed term (unless the fixed term is less than one month in which case the information must be given to the customer at the commencement of the term).

14.6. Where the Licensee has financial responsibility in the wholesale gas market for a MIRN relating to premises which it knows to be vacant, the Licensee must, if it elects to leave the premises connected, deliver to the premises an information package relating to offers of retail contracts which are available.

## **15. Hot water metering**

15.1. The Licensee must, for a customer for whom it is providing services associated with bulk hot water, ensure that each hot water metering installation is provided, replaced, installed, repaired and maintained in accordance with all applicable laws and any applicable guideline.

- 15.2. Without limiting clause 15.1, within 20 business days after receiving a request for the provision, replacement, installation, repair or maintenance of a hot water metering installation which is not functioning in accordance with all applicable laws and any applicable guideline, the Licensee must offer to provide the service requested on terms which are fair and reasonable and which are not inconsistent in the opinion of the Commission with any applicable guideline.
- 15.3. If a customer replaces the Licensee with another retailer as the supplier of bulk hot water services for a multi-unit dwelling, the Licensee must, if it is the owner of the relevant hot water metering installation, on request offer to sell that hot water metering installation to the other retailer on fair and reasonable terms and conditions.
- 15.4. Any question as to the fairness and reasonableness of the terms and conditions of an offer made under clause 15.3 shall be decided by the Commission on the basis of the Commission's opinion on the fairness and reasonableness of the terms and conditions.

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**16. Separate accounts**

- 16.1. If the Licensee holds more than one licence under Part 3 of the Act, the Licensee must prepare separate accounts for each part of its business in respect of which it has been granted a separate licence.

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**17. Payment methods**

- 17.1. The Licensee must not implement a pre-payment meter scheme without the prior approval of the Commission.
- 17.2. The Licensee must notify the Commission at least 20 business days prior to the termination of an arrangement with any agency or payment outlet through which customers of the Licensee may pay bills.

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**18. Community service obligation agreements**

- 18.1. If so directed by the Secretary to the Department of Human Services, the Licensee must enter into an agreement with the State for the provision of community services on terms and conditions determined or agreed in accordance with Division 5 of Part 3 of the Act.

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**19. Retailer of last resort**

- 19.1. On or before a date to be nominated by the Commission in a communication given to the Licensee, the Licensee must submit to the Commission proposed tariffs, terms and conditions upon which the Licensee would sell gas in accordance with the requirement under clause 19.2.
- 19.2. Subject to clause 19.3, the Licensee must sell gas to a customer at tariffs and on terms and conditions approved or determined by the Commission under Division 6 of Part 3 of the Act.



- 19.3. In approving proposed terms and conditions under clause 19.2 the Commission may approve terms and conditions which do not deal with the subject matter of all of the provisions of the Energy Retail Code.
- 19.4. The requirement under clause 19.2:
- a. applies only if the Licensee is so directed by the Commission in a notice given to the Licensee;
  - b. imposes an obligation on the Licensee to sell gas to a customer which:
    1. commences when a last resort event occurs in respect of the customer's other retailer; and
    2. ends:
      - (a) after three months;
      - (b) when the customer advises the Licensee in writing that the sale is no longer required;
      - (c) when the customer transfers to another retailer; or
      - (d) when the customer enters into a new contract for the sale of gas with the Licensee,
 whichever occurs first.
- 19.5. As soon as practicable after being notified by the Commission or otherwise becoming aware of its obligation to a customer under clause 19.2, the Licensee must give the customer notice in writing:
- a. that a last resort event has occurred in respect of the other retailer;
  - b. that, as a result, the Licensee and the customer are deemed to have entered into a contract for the sale of gas under section 51E(5) of the Act;
  - c. of the date the deemed contract commenced;
  - d. of the tariff and the terms and conditions of the deemed contract;
  - e. that the customer's meter has been or will be read, or an estimate will be made, as at the date the deemed contract commenced so that it can be established what amount of gas has been sold to the customer by the other retailer prior to the occurrence of the last resort event and what amount of gas has been and will be sold to the customer by the Licensee after the occurrence of the last resort event;
  - f. of that meter reading or estimated meter reading. Notice of the meter reading or estimated meter reading may be given after notice of the other matters contemplated by this clause 19.5 is required to be given;
  - g. whether any debt owed by the customer to the other retailer or by the other retailer to the customer, as the case may be, will continue to be so owed and, if it will not, to whom and by whom it will be owed;



- h. of alternatives available for the customer to arrange a transfer to another retailer or to obtain any different tariff, or different terms and conditions, from the Licensee including that the customer may advise the Licensee in writing that the sale of gas by the Licensee is no longer required; and
- i. of how and where to obtain further information.

## **20. Provision of information**

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- 20.1. The Licensee must maintain comprehensive records regarding any activities undertaken pursuant to this Licence for a period of at least 7 years.
- 20.2. The Licensee must inform the Commission of any breach by it of the conditions of this Licence, including any non-compliance with the instruments referred to in clause 9.1, as soon as reasonably practicable after becoming aware of the breach.
- 20.3. The Licensee must as soon as reasonably practicable provide AEMO with such information relating to any activities undertaken pursuant to this Licence as AEMO may properly request in connection with the performance of its functions or the exercise of its powers under the Act in the manner and form specified by AEMO.
- 20.4. The Licensee must, as soon as reasonably practicable, provide the Commission with such information relating to any activities undertaken pursuant to this Licence as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act and in a manner and form specified by the Commission.
- 20.5. The Licensee must, as soon as reasonably practicable, provide the Commission with information on its ongoing technical capacity to undertake the activities authorised by this Licence as the Commission may properly request in connection with the performance of its functions or the exercise of its powers under the Act and in a manner and form specified by the Commission.
- 20.6. In this clause 20:
  - a. activities undertaken pursuant to this Licence includes any activities of that type undertaken by a contractor, subcontractor, agent or other third party (a third party) engaged by the Licensee for the purpose of enabling the Licensee to undertake the activities authorised by this Licence; and
  - b. information includes information in the possession, custody or control of any third party.
- 20.7. The Licensee must ensure that any contract entered into with any such third parties contains such provisions as are necessary to enable the Licensee to comply with the requirements of this clause 20.
- 20.8. ***Change of control***

- a. The Licensee must give the Commission a notice if any event occurs, any decision by the Licensee is made, or any other circumstances exist that will effect a change of control of the Licensee.
- b. The notice required under condition 20.8(a) must set out particulars of the relevant event, decision or circumstance as soon as practicable, and in any case, not later than three Business Days after the Licensee becomes aware of the event or circumstance or makes the decision.

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**21. Audit**

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- 21.1. Upon request by the Commission, the Licensee must appoint an auditor to be approved by the Commission to conduct audits of:
  - a. the Licensee's compliance with its obligations under the Act or this Licence, including but not limited to the codes and guidelines referred to in clause 9.1;
  - b. the reliability and quality of information reported by the Licensee to the Commission and the consistency of that information with the Commission's specifications; and
  - c. any other matter as directed by the Commission.
- 21.2. The Licensee must ensure that the Commission is promptly provided with a copy of any reports produced by the auditor pursuant to this clause. The Licensee must comply, and must require the auditor to comply, with any guidelines issued by the Commission dealing with audits under this clause.

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**22. Dispute resolution**

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- 22.1. The Licensee must enter into a customer dispute resolution scheme approved by the Commission under section 36 of the Act.

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**23. Compliance with laws**

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- 23.1. The Licensee must comply with all applicable laws.

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**24. Revocation**

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- 24.1. The Commission may revoke this Licence:
  - a. at any time at the request of or with the consent of the Licensee; or
  - b. in accordance with the Act.
- 24.2. Where consistent with its objectives under the Act and the ESC Act, the Commission may revoke this Licence if:
  - a. the Licensee fails to comply with an undertaking or a final enforcement order;
  - b. the Licensee breaches any condition of this Licence, including any condition deemed to apply by the Act or any other legislation;

- c. any information provided by the Licensee pursuant to this Licence or in its application for the Licence is found to be false or misleading;
- d. the Licensee's financial viability or technical capacity is such that the Commission considers that the Licensee would be unable to satisfactorily meet its obligations under this Licence or to its large customers; or
- e. the Licensee fails to comply with a decision, direction, determination or arrangement (as the case may be) made by or agreed with the Commission, AEMO or the Minister;
- f. one of the following events happens:
  - 1. a petition or other application being presented or resolution being passed for the winding up, liquidation or dissolution of the Licensee or notice of intention to propose such a resolution being given or the entry of the Licensee into a scheme of arrangement or compromise or deed of company arrangement with any of its creditors;
  - 2. the appointment of an administrator, a receiver or receiver and manager or official manager or agent of a secured creditor to any of the Licensee's property;
  - 3. the Licensee ceasing to carry on business or stopping or wrongfully suspending payment to any of its creditors or stating its intention to do so;and the Commission determines that the event, or actions arising from the event, would, or would be likely to, result in the inability of the licensee to meet its obligations under this Licence.

24.3. Where the Commission decides to revoke this Licence, the Commission will issue a notice to the Licensee, specifying:

- a. the basis upon which the Commission is revoking this Licence; and
- b. the date upon which the revocation will take effect, such date to be:
  - 1. in the case of a breach of clause 10 or 11.1 or where clause 24.2.a applies or where in the Commission's opinion it is appropriate that the Licence be revoked in a shorter time frame having regard to its objectives and the events or circumstances that gave rise to the notice being issued, no less than 5 business days after the date upon which the notice is issued; and
  - 2. in all other cases, no less than 20 business days after the date upon which the notice is issued,

and, subject to clause 24.4, this Licence will be revoked on the date specified in the notice.

24.4. The Commission may, at its discretion and by written notice to the Licensee, withdraw a notice issued under clause 24.3 at any time prior to the revocation



date specified in the notice if the Commission is satisfied that the Licensee has complied with the relevant enforcement order or undertaking, rectified the breach or complied with the relevant decision, direction, determination or arrangement (as the case may be) or if the Commission considers that it is otherwise appropriate to withdraw the notice.

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**25. Variation**

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- 25.1. For the purposes of section 38 of the Act, the Commission may vary this Licence in accordance with the procedures set out in this clause 25.
- 25.2. Where the Commission:
- a. wishes to amend the list of instruments referred to in clause 9.1; or
  - b. is of the opinion that a proposed variation to the Licence is consistent with its objectives and is:
    1. of an administrative or trivial nature; or
    2. required urgently, such that it would not be appropriate to issue a notice under section 38(1)(c) of the Act,
- the Commission may issue a notice to the Licensee varying this Licence accordingly.
- 25.3. A notice issued under clause 25.2 will include:
- a. the terms of the variation;
  - b. the purpose of the variation;
  - c. where clause 25.2.b applies, confirmation that the Commission is of that opinion; and
  - d. the date upon which the variation will take effect.

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**26. Transfer**

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This Licence may be transferred in accordance with section 40 of the Act.

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**27. Administrator**

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- 27.1. Subject to clause 24, if an administrator is appointed to the Licensee's business under section 41 of the Act, the administrator must exercise its functions and powers in such a manner as may be specified by the Commission in the instrument of appointment.



## Schedule 1 – Variations to the Licence

Date	Variation

