

# TERMS AND CONDITIONS FOR DECOMMISSIONING AND METER REMOVAL SERVICES FOR PREMISES CONNECTED TO EVOENERGY'S GAS DISTRIBUTION NETWORK IN NSW AND ACT

Effective Date: 02/05/16

# Introduction

These terms and conditions comprise:

- This introduction
- Part A: Acceptance of offer and payment of decommissioning charges
- Part B: Terms and conditions of providing the service
- Annexure A: Site condition requirements

## What does this document apply to?

This document applies where we have made an *offer* to decommission the existing gas service and remove the meter at a supply address connected to our gas distribution network in ACT and NSW (**decommissioning service**).

This *service* is available where the *site condition requirements* in Annexure A are satisfied. If the *site condition requirements* are not satisfied, these terms and conditions do not apply (unless we agree otherwise) and we may withdraw the *offer* at any time prior to acceptance. If *you* have accepted the *offer*, clause 8.4 will apply.

## What does Part A of this document do?

Part A details the acceptance process and details about any decommissioning charge payable in relation to the service.

## What does Part B of this document do?

Part B sets out the terms and conditions that apply to you and us in relation to the decommissioning work, including the steps that both you and we are required to undertake so that the decommissioning work can be undertaken.

## Privacy Policy

You acknowledge and agree that we and our related bodies corporate and Jemena<sup>1</sup> may use your or the client's personal information for future marketing and research purposes.

In this document, 'our privacy policy' means:

- (a) the Evoenergy privacy policy as published on *our* website [evoenergy.com.au](http://evoenergy.com.au) , and/or
- (b) where the application is received or processed by Jemena, means Jemena's privacy policy as published on its website at [jemena.com.au](http://jemena.com.au).

## Understanding this document

Italicised words in this document have the meaning given to them in the Dictionary in clause 15.

Please ensure *you* read this document. If *you* have any queries in relation to this document then please visit *our* website [evoenergy.com.au](http://evoenergy.com.au) or contact the Jemena New Connections Team as follows:

New Connections Team Jemena

PO Box 1220

North Sydney NSW 2059 Phone: 1300 137 078

Fax: 02 9867 7453

Email: [newhomeconnections@jemena.com.au](mailto:newhomeconnections@jemena.com.au)

## Part A: acceptance of offer & payment of charges

### 1. Application

On lodging an *application* and paying the applicable *decommissioning* charge, you are taken to have requested the provision by us of a *decommissioning* service on the terms and conditions of this document.

### 2. Decommissioning charge

2.1 [Not used]

2.2 The *decommissioning* charge is payable in consideration of us providing the *offer* and undertaking the *decommissioning* work.

2.3 Except where you are a *retailer* the *decommissioning* charge must be paid in full at the time you apply for the *decommissioning* service or by some later time notified by us. If the *decommissioning* charge is not paid by that time, the *agreement* will (unless we advise otherwise) automatically terminate and we will not undertake the *decommissioning* work.

2.3 [Not used]

## Part B: Terms and conditions of providing the service

### 3. Formation of Agreement

Upon our acceptance of the *application*, you are taken to have entered into an agreement with us to carry out the *decommissioning* work on the terms and conditions set out in the *offer* (**agreement**). The information contained in the *application* is incorporated into and forms part of the *agreement*.

### 4. Retail gas agreement for supply address

4.1 Where *retail gas agreement* is in place at time of *application*

If a *retail gas agreement* is in place when you make the *application*, then you agree that we may, but are not obliged to, accept the application and will be entitled to require you to arrange for your *retailer* to apply for the *decommissioning* service.

4.2 [not used]

4.3 Information regarding *retail gas agreement*

Except as disclosed in the *application*, you confirm that there is no *retail gas agreement* in place and you acknowledge that we rely on that confirmation.

You must provide such further information as we reasonably require, verifying the accuracy of any information given to us under the *application* or this clause 4.

4.4 *Applications* lodged by *retailers*

Clauses 4.1 and 4.3 do not apply if you are a *retailer*.

### 5. Description of the decommissioning work

5.1 Unless described otherwise in the *offer*, the *decommissioning* work comprises the removal of the gas meter and the permanent isolation of the *supply address* from our

gas main. The *decommissioning work* will be reasonably determined by us having regard to the *safety and technical requirements*.

5.2 You are responsible for all other work arising from the cessation of gas consumption and the removal of the meter at the *supply address*.

## **6. Gardens, driveways and other hard surfaces**

6.1 To the extent reasonably practicable, we will endeavour to minimise disturbance to building surfaces, gardens and driveways while carrying out the *decommissioning work*.

6.2 The *decommissioning work* does not include the reinstatement of any surfaces including gardens, and you will be responsible for having any existing turf re-laid and top soil spread upon completion of the *decommissioning work*.

6.3 The *decommissioning work* does not include repair or restoration of damage caused to building surfaces by the original installation, or removal, of the meter and other equipment.

## **7. Timing of decommissioning work**

7.1 We will endeavour to commence and complete the decommissioning work at a time agreed with you, within a reasonable period after payment of the *decommissioning charge*.

7.2 [not used]

7.3 [Not used]

7.4 Factors that may cause a delay to or prevent the commencement or completion of the *decommissioning work* include, but are not limited to:

- a) requirement for traffic control (see clause 7.5);
- b) inclement weather;
- c) unforeseen ground conditions;
- d) the conduct of other works at or in the vicinity of the *supply address*; and
- e) your failing to comply with your obligations under this document (including the *site access requirements* in clause 9 and approvals requirements in clause 10).

7.5 Where we determine that traffic control is required to perform the *decommissioning work*, then we will arrange for an approved traffic management plan prior to commencing work. This will involve additional lead time. The costs associated with this plan and traffic control are included in the *decommissioning charge*.

## **8. Site information and compliance with site condition requirements**

8.1 You must provide us with:

- a) all information about any risks, hazards or other actual or potential issues known to you that could reasonably be expected to affect the nature, cost or timing of the *decommissioning work* as early as possible before commencement of those works; and
- b) all other information we reasonably require at any time relating to the rights and obligations of you and us under this *agreement*.

8.2 You must also notify us immediately if:

- a) any information previously provided by you is no longer accurate; or
- b) you become aware of any matter or thing that might reasonably be expected to affect the nature, cost or timing of the *decommissioning work*.

8.3 You acknowledge and agree that we rely on the accuracy of all information you provide to us, including the *site information*:

- a) to determine whether the property at the *supply address* meets the *site condition requirements* for the service;
- b) to calculate the *decommissioning charge*; and
- c) in carrying out the *decommissioning work*.

8.4 You accordingly confirm the accuracy of that information and that the *supply address* satisfies the applicable *site condition requirements*. If that information is found to be inaccurate<sup>2</sup>, or the *site condition requirements* cease to be satisfied, or you fail to comply with clause 9, or you request a variation to the connection at the *supply address* ("**change in circumstances**"), then we will re-assess the suitability of the *supply address* for the service and may:

- a) terminate the *agreement* and take no further action to perform the
- b) *decommissioning work*, or
- c) terminate the *agreement* and provide you with a revised offer.

Any charge payable under a revised offer will be set out in that offer, together with the manner in which those charges are to be paid.

## 9. Site access

9.1 You must:

- a) ensure that we and all our authorised representatives are provided with safe and unhindered access to the *supply address* to enable us to carry out the *decommissioning work*; and
- b) comply with all reasonable requests made by us and our authorised representatives in relation to *supply address* access.

9.2 Failure by you to comply with this clause 9 will be treated as a *change in circumstances* and clause 8.4 will apply.

## 10. Approval of affected parties

10.1 You are responsible for obtaining at your own cost written approval from all affected parties and relevant statutory authorities for us to carry out the *decommissioning work* (except in relation to traffic management), including the consents referred to in clauses 10.2 and 10.3. We will not be obliged to commence the *decommissioning work* until such approvals are provided.

10.2 Without limiting clause 10.1, the consent of the *land owner* at the *supply address* must be obtained where:

- a) you are a *residential customer* and you are not the *land owner*; or
- b) you are not a *residential customer* and neither you or the *client* is the *land owner*.

10.3 Where you are not a *residential customer*, or where you are a *residential customer* and clause 10.5 applies, you must also ensure that you have obtained the written consent of any individual whose *personal information* will be provided to us for that individual's *personal information* to be provided to us and other parties (such as *Jemena* or a *retailer*), and for us and those recipients to collect, use and disclose the information:

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<sup>2</sup> Including where it is identified that the quantity of gas taken through the meter will, or can reasonably be expected to, exceed 10TJ per annum.

- a) for the purposes of the *decommissioning work*, for the supply of gas to the *supply address*, and for related or ancillary purposes and any other purposes identified in *our* privacy policy from time to time; and
- b) in compliance with all applicable laws, including the Privacy Act 1988 (Cth).

10.4 As part of this, *you* must ensure that the individual is aware of the matters identified in Australian Privacy Principle 1.4 when *you* collect the *personal information*, including the matters set out in *our* privacy policy.

Where *you* are a *residential customer*, *you* acknowledge that by signing the *application* *you* consent to the provision of *your personal information* to *us* and other parties (such as *Jemena* or a *retailer*), and for *us* and those recipients to collect, use and disclose the information:

- a) for the purposes of the *decommissioning work*, for the supply of gas to the *supply address*, and for related or ancillary purposes and any other purposes identified in *our* privacy policy from time to time; and
- b) in compliance with all applicable laws, including the Privacy Act 1988 (Cth).

As part of this, *you* acknowledge that *you* are aware of the matters set out in *our* privacy policy.

10.5 Where *you* are a *residential customer* and *you* have provided *personal information* of another person, then *you* must comply with clause 10.3 in relation to that person's information and details.

## 11. Gas Installation Compliance Certification

*You* must ensure a certificate of compliance for each new *gas installation* at the *supply address* is provided to *us* by a *licensed gasfitter* promptly after the *gas installation* is completed.

**Note:** The law requires that work in relation to a *gas installation* at the *supply address* must be carried out by or under the immediate supervision of a *licensed gasfitter* and in accordance with all relevant legislation and statutory instruments.

## 12. Use of gas at the premises

*You* must ensure that all gas appliances (including customer installation pipework) located at the *supply address* are installed in accordance with applicable laws and standards and by an appropriately qualified person.

*You* and the *client* (if any) accept all risks in respect of the control and use of gas at the premises located at the *supply address*.

## 13. Termination

If, other than as a result of a breach of the *agreement* by *us*, the *decommissioning work* is not completed within 90 days of acceptance of the *offer*, or such later date agreed by *us*, *we* may terminate the *agreement* on written notice to *you*.

In this case, on *your* request, *we* will provide *you* with a new offer to provide the *service*, which *you* may accept in accordance with the terms of that revised offer.

*We* may also terminate the *agreement*:

- a) pursuant to clause 8.4, or
- b) where agreed with *you*, or
- c) where a contract has been created upon acceptance of the *offer*, and a credit assessment of the *applicant* indicates that it is not creditworthy.

## 14. Liability

### 14.1 Limitation of Liability

- a) All express or implied warranties, representations or covenants which are not contained in the *agreement* (or, where *you* are a *retailer*, the gas transportation agreement between *you* and *us*) are excluded to the maximum extent permitted by law.
- b) If:
  - I. a condition or warranty is implied into the *agreement* under any Commonwealth, State or Territory legislation that cannot be excluded; or
  - II. any consumer guarantee applies to any goods or services *we* supply as part of providing the *decommissioning work* under the *agreement*,

then *our* liability (if any) to *you* for any breach of the condition or warranty, or any failure to comply with a consumer guarantee in connection with any goods or services (that are not of a kind ordinarily acquired for personal, domestic or household consumption) is limited, as far as the law permits and at *our* option, to resupplying the goods or services or paying for their resupply.

- c) Nothing in the *agreement* excludes, restricts or modifies the operation of the *consumer guarantees* where to do so would contravene *the Australian consumer law* or cause any part of this clause to be void.
- d) Subject to clause ( ) above, and as far as the law permits, *we* are not liable for any loss *you* may suffer (including, without limitation, where caused by any negligent or wilful act or omission by *us* or by any other person) arising:
  - I. from any breach of the terms of the *agreement* by *us* ; or
  - II. in relation to the *decommissioning work* undertaken by *us*.
- e) *You* acknowledge and agree that *we* are not responsible for, and (as between *us* and *you*) *you* accept all risks in respect of, the control and use of gas at the *supply address*.
- f) *You* must ensure that all appliances that require a supply of gas are installed in accordance with applicable laws and standards and by an appropriately qualified person.
- g) *You* indemnify *us* against (and therefore must pay *us* for) loss or damage suffered by *us* arising from or in connection with the control and use of gas at the *supply address*.
- h) In this agreement:
  - I. *Australian consumer law* means Schedule 2 of the *Competition and Consumer Act 2010* (Cth);
  - II. *consumer guarantee* means guarantees that *we* are required to provide under the Australian Consumer Law in relation to goods and services supplied to *you* as a 'consumer within the meaning of that term in the *Australian consumer law* or relevant jurisdictional legislation, including guarantees that services are provided with due care and skill, and that goods are of acceptable quality;

### 14.2 Indemnity

*You* agree to indemnify *us* and *our* related bodies corporate for any damages, costs, expenses, claims and demands suffered by *us* and against all liability in respect of any claim which may be taken or made against *us*, including without limitation any claim relating to:

- a) loss of, or damage to, or loss of use of, any real or personal property; or

- b) personal injury, disease or illness (including mental illness) to, or death of, any person,

arising from or in connection with:

- c) any breach of the *agreement* by *you* (or any of *your* employees, contractors or agents); or
- d) the carrying out of any work (including the *decommissioning work*) at the *supply address* by *you* or any of *your* employees, contractors, agents or customers ; or
- e) any failure by *you* (or any of *your* employees, contractors or agents) to comply with applicable laws.

We hold the benefit of this indemnity granted in *our* favour on trust for *ourselves* and *our* related bodies corporate.

#### 14.3 Indemnity – privacy legislation

*You* release and indemnify *us* against any claim or proceeding that is made, threatened or commenced against *us*, and any cost, liability, loss, damage or expense (including legal and other professional costs on a full indemnity basis) that *we* incur or suffer, as a direct or indirect result of *your* failure to comply with the *Privacy Act 1988* (Cth), or failure to secure any necessary consent.

### 15. General

15.1 The agreement comprises the entire understanding of the parties. Any previous negotiations, understandings, representations, warranties or commitments in relation to, or in any way affecting, the subject matter of this agreement are merged in and superseded by the *agreement* and will have no legal effect.

15.2 If for any reason any of the terms of the *agreement* are held to be invalid, illegal or unenforceable by any court or administrative body, all other terms of the *agreement* will remain in force.

15.3 Any reference in this document to legislation, regulations, rules and other statutory instruments is a reference to the relevant document as amended or replaced from time to time. References to a “clause” are to clauses in this document.

15.4 The *agreement* will be governed by the law applicable in the Australian Capital Territory.

15.5 Clauses 8 and 14, and *your* obligations in clauses 4.3, 10.3, 10.4, 10.5, 11 and 12 survive termination of the *agreement*.

15.6 The terms set out below have the following meanings in this document.

***ACT Gas Service & Installation Rules*** means the rules published from time to time by *us* for gas service and installation;

***access arrangement*** means *our* access arrangement for *our* gas distribution network, as in force from time to time under the National Gas Law.

***agreement*** has the meaning given to that term in clause 3.

***applicant*** means the person who lodged the *application*.

***application*** means, as applicable, the *application* form for a *service* at the *supply address*, in the form published on *our* website, or the completed form lodged by *you* (including through *our electronic business system*) requesting a *service* at the *supply address*.

***business day*** has the meaning given to it in section 2 of the National Energy Retail Law.



**change in circumstances** has the meaning given in clause 8.4. **client** means the owner or occupant of the *supply address*. **decommissioning charge** means the charge specified in the *offer*.

**decommissioning work** means the work described in clause 5 and the *offer*.

**electronic business system** means *our* electronic business system used by *us* for gas market business transactions with *retailers* and the electronic portal operated by Jemena.

**gas installation** means the installation of equipment beyond the point of termination of the meter required to provide a supply of gas to the premises at the *supply address*.

**Jemena** means Jemena Asset Management Pty Ltd ACN 086 013 461 and its related bodies corporate.

**land owner** means the lessee of the Crown Lease at the *supply address*.

**licensed gasfitter** means a gasfitter appropriately licensed by under the *Home Building Act 1989* (NSW), *Home Building Regulation 2004* (NSW) and the *Gas Supply (Consumer Safety) Regulation 2012* (NSW) or the *Gas Safety Act 2000* (ACT).

NGR means the National Gas Rules.

**offer** means the offer to provide a *connection alteration service* at the *supply address* made by *us* to *you* in the form of:

- a) an offer letter (including an offer acceptance sheet) which incorporates these terms by reference or to which this document is attached; or
- b) an electronic offer made through *our electronic business system*

and which incorporates the terms and conditions set out in this document, in each case subject to any variations made pursuant to clause 8.

**our, we, or us** means Jemena Networks (ACT) Pty Ltd (ABN 24 008 552 663) and Icon Distribution Investments Limited (ABN 83 073 025 224) t/as Evoenergy (ABN 76 670 568 688)

**personal information** has the meaning given to it under the Privacy Act (1988) (that is information or an opinion, whether true or not, and whether recorded in a material form or not, about an identified individual, or an individual who is reasonably identifiable e.g. an individual's name, signature, address, telephone number).

**regulatory requirements** means any Commonwealth, State, Territory or local government legislation including Acts of Parliament, regulations, by-laws or other subordinate legislation, judicial, administrative or regulatory decrees or orders, or any mandatory approvals and guidelines, including industry standards or administrative interpretations of them, as may be in force and as amended from time to time;

**residential customer** has the meaning given to it in the National Energy Retail Law (that is, a customer who purchases energy principally for personal, household or domestic use at premises).

**retailer** means a retailer as defined in the National Gas Law (that is, a person who is the holder of a retailer authorisation issued under the National Energy Retail Law in respect of the sale of gas).

**safety and technical requirements** means all relevant gas industry rules and standards, including:

- a) the Evoenergy ACT Gas Service & Installation Rules which can be found at [evoenergy.com.au](http://evoenergy.com.au)
- b) any relevant Evoenergy standards;
- c) applicable Regulatory Requirements, including any reasonable directions Evoenergy gives to the Applicant under the Regulatory Requirements;

- d) AS/NZS 4645 Gas distribution networks (series comprising AS 4645.1 Network Management, AS 4645.2 Steel Pipe Systems and AS 4645.3 Plastic Pipe Systems).

**service** means the service described in the *offer* and in the Introduction.

**site condition requirements** means the conditions set out in Annexure A.

**site information** means the site plans and information provided by *you* prior to commencement of the *decommissioning work*, including information set out in the *application*.

**small customer** has the meaning given to it in the National Energy Retail Law (that is, a *residential customer* or a business customer who consumes less than one terajoule of gas per year).

**supply address** means the address specified in the *application*.

**you** and **your** means the *applicant*.

#### 15.7 Complaints

- a) If *you* have a complaint, *you* may make a complaint under *our* Complaints and Handling Procedure, which is available at [evoenergy.com.au](http://evoenergy.com.au) *We* will follow *our* Complaints Handling Procedure.
- b) If *you* have a dispute with *us*, *we* will try to resolve that dispute informally with *you*. If *we* cannot resolve the dispute informally, then *you* may request *us* to formally review the issue which has caused the dispute.
- c) In accordance with the National Gas Rules, *you* may refer to the AER a dispute with *us* about the terms and conditions on which any of *our* connection services are provided or about *our* decommissioning charges.
- d) *You* must continue to perform *your* obligations under the *agreement*
- e) despite any ongoing dispute.
- f) Nothing in this clause prevents a party exercising its rights under the
- g) *agreement* or applying to a court for urgent relief.

#### 15.8 Inconsistency with access arrangement

The parties acknowledge and agree if there is any inconsistency or discrepancy between the *access arrangement* and the terms set out in this document, then the *access arrangement* will apply to the extent of the inconsistency or discrepancy.

## Annexure a: site condition requirements

### Site condition requirements for *decommissioning and meter removal service*

Annual consumption of gas at the *supply address* is forecast to be less than ten (10) terajoules.

# evoenergy.com.au

## General enquiries

13 23 86

## Emergencies and faults

13 10 93 – Electricity

13 19 09 – Natural gas

## Language assistance

13 14 50 – 24 hours

如果您需要幫助，請打電話給下面的號碼。

¿Necesita un intérprete? Llame al número indicado abajo.

هل تحتاج إلى مترجم؟ اتصل بالرقم أدناه.

Trebate li pomoć tumača? Nazovite niže navedeni broj.

Nếu quý vị cần sự giúp đỡ, vui lòng gọi số bên dưới.

Se vi serve un interprete, telefonate al seguente numero.

Αν χρειάζεστε διερμηνέα, τηλεφωνείτε στον αριθμό παρακάτω.

Jemena Networks (ACT) Pty Ltd (ABN 24 008 552 663) and Icon Distribution Investments Limited (ABN 83 073 025 224) t/as Evoenergy (ABN 76 670 568 688).