

TERMS AND CONDITIONS

1 Agreement

1.1 This Agreement commences on the Commencement Date and continues until terminated under clause 7.

1.2 This Agreement consists of the Details, these Terms and Conditions and the Defined and Supplementary Terms, which can be accessed at www.utilityshop.com.au, or provided upon request by the Customer.

1.3 Capitalised terms used in this Agreement have the meaning given by the Defined and Supplementary Terms.

2 Utilities

2.1 The Customer agrees to the supply of the Utilities to the Customer, in consideration of the payment by the Customer of the Utility Charges and Payments, during the Term in accordance with these Terms.

2.2 The Customer acknowledges and agrees that the Company acts as agent for the Owner in performing this Agreement and the Customer will not object to the Company's right to enforce this Agreement on behalf of the Owner.

3 Prices and payment

3.1 The Customer will pay the Utility Charges and Payments to the Company in accordance with the Payment Terms.

3.2 The Company may review the Utility Charges from time to time and set the Utility Charges as reasonably determined by the Company having regard to the offer from the Utility Provider, and will notify the Customer of any revised Utility Charges.

3.3 The procedure set out in the Defined and Supplementary Terms will apply in respect of any over-charging or under-charging of fees under this Agreement.

3.4 If the Customer fails to pay any amount required to be paid under this Agreement within the time specified in the Payment Terms the Company may charge the Customer interest at the Interest Rate on outstanding monies accruing daily from the due date until the date payment is received.

3.5 The Company may charge the Customer for any expenses and/or costs or disbursements incurred by the Company in recovering any outstanding monies including debt collection agency fees and/or legal costs.

3.6 The Company may set off against and apply towards any amount it owes the Customer any amount that the Customer owes to the Company, whether or not under this Agreement.

3.7 The Company may disclose information about the Customer to a credit reporting agency in order to obtain a consumer or commercial credit report about the Customer, or to allow a credit reporting agency to create or maintain a credit information file containing information about the Customer listing defaults, and exchanging information with other credit providers under the Privacy Act.

3.8 Upon request by the Company, the Customer must pay the Security Deposit to the Company on demand, which will be refunded by the Company on expiry or termination of this Agreement provided the Customer has paid all outstanding amounts due to the Company.

4 Customer's Obligations

The Customer must:

4.1 Provide all information and do all things that the Company reasonably requires to supply the Utilities;

4.2 Provide the Company's personnel and/or contractors with reasonable and safe access to the Supply Address;

4.3 Acknowledge and agree that should it fail to provide access to the Supply Address as required by the Company, invoices may be completed by estimating Utility usage, and may result in termination of this Agreement and/or disconnection of Utilities;

4.4 Acknowledge and agree that the Company may take whatever action is permissible under the Energy Retail Code if the Customer fails to pay for the supply of Utilities, which may include disconnection of the supply of Utilities;

4.5 Ensure that all information provided to the Company is and remains complete and accurate;

4.6 Ensure that all Meters and related equipment existing at the Supply Address are kept safe, are used only in accordance with any instructions provided by the Company and are not tampered with or altered in any way;

4.7 Acknowledge and agree that any Meter remains the sole property of the Company and may be removed by the Company;

4.8 Act in good faith at all times towards the Company and give the Company such assistance and co-operation as the Company reasonably requests; and

4.9 Comply with all Laws in connection with this Agreement.

5 Warranty and Indemnity

The Customer indemnifies the Company against any direct or indirect Liability that the Company may incur as a result of:

5.1 Loss of or damage to any property, or injury to or death of any person, caused by any negligent act or omission or wilful misconduct of the Customer;

5.2 A breach of this Agreement or any Law by the Customer;

5.3 Accessing any premises pursuant to Agreement; or

5.4 Total or partial failure to supply Utilities to the Supply Address, and any Liability the Customer suffers as a result of the defective supply of Utilities,

6 Liability

6.1 To the extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities or other terms implied or imposed by statute, custom or the general law are excluded.

6.2 The Company's sole and exclusive maximum Liability, whether based in contract, tort, or otherwise, will not in any event exceed any one of (in its discretion) resupplying the services or payment of the costs of their resupply.

6.3 The Company will not be liable for any Additional Damages incurred by the Customer arising out of or relating to this Agreement, even if the Company had been advised of the possibility of such Additional Damages.

6.4 The Company does not warrant that the supply of Utilities will be uninterrupted or will not give rise to Liability.

7 Termination and suspension

7.1 This Agreement may be terminated by either party immediately by written notice to the other party if that other party commits a breach of any of its obligations under this Agreement and such breach is incapable of remedy, or has not been remedied by that other party within 21 days after receiving notice advising it of such breach.

7.2 This Agreement may be terminated by either party if the other party becomes subject to an Insolvency Event.

7.3 This Agreement may be terminated by the Company:

(a) on 30 days' written notice to the Customer;

(b) on 7 days' written notice to the Customer if the Embedded Network Management Agreement between the Company and the Owner expires or is terminated; or

(c) if the Customer fails to make payment of an invoice in accordance with the Payment Terms, the Company issues a reminder notice and disconnection warning to the Customer, and the Customer fails to pay the amount due within 5 Business Days' of the disconnection warning.

7.4 This Agreement may be terminated by the Customer where it provides at least 5 Business Days' notice in writing that it wishes to terminate the Agreement and provides a valid forwarding address to which a final invoice can be sent.

7.5 On termination of this Agreement, within 7 days the Customer will pay the Company any amount owed to the Company as at the date of termination, which may include a Disconnection Fee, and pay the Unavoidable Costs as notified to the Customer.

7.6 The Customer authorises the Company to contact relevant third parties such as the Customer's leasing agent to obtain any necessary information in order for the Company to contact the Customer if the Customer has vacated the Supply Address without paying any amounts owed to the Company, and further agrees that doing so will not constitute any breach of the Customer's rights.

7.7 Unless prohibited under the relevant Laws, the Company may suspend the provision of Utilities to the Supply Address if due amounts are not paid in accordance with the Payment Terms, or where necessary to do so as a result of any emergency, health and safety reason or dangerous situation or in order to undertake maintenance or other work.

8 General

8.1 The Defined and Supplementary Terms set out the procedure by which the Company will respond to a complaint or resolve a dispute relating to this Agreement.

8.2 If a provision of this Agreement is inconsistent with any Regulatory Requirements, that provision will prevail to the extent permitted by the Regulatory Requirements.

8.3 If this Agreement does not address (or only partly addresses) a matter required by any Regulatory Requirement to be expressly addressed under this Agreement, or if any provision is rendered void for inconsistency with a Regulatory Requirement, that Regulatory Requirement is incorporated into this Agreement in whole or in part as required.

8.4 Neither party will be responsible for any delay or failure to carry out this Agreement due to a Force Majeure Event.

8.5 The Customer must not assign its interest in this Agreement without the prior written consent of the Company. Any purported dealing in breach of this clause is of no effect.

8.6 This Agreement and the Defined and Supplementary Terms contain the entire understanding between the parties.

8.7 This Agreement is governed by the laws of South Australia, and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of South Australia.