

# METER ALTERATION REQUESTS TERMS & CONDITIONS

## OVERVIEW

1. This document sets out the terms upon which We will provide the Works at the Property set out in Your completed Application Form.

## DEFINITIONS

2. In this document:

- (a) **“We”, “Us”, “Our”** and **“ATCO”** means ATCO Gas Australia Pty Ltd.
- (b) **“You”** or **“Customer”** means the natural person or corporate entity who completed the Application Form.
- (c) **“Application Form”** means the application form on Our website titled “Meter and Service Alteration Request Form.”
- (d) **“Business Day”** means a day other than a Saturday, Sunday or public holiday in Perth.
- (e) **“Agreement”** means the contract formed when You lodge the Application Form. The Agreement consists of this document and Your completed Application Form.
- (f) **“Gas Distribution System”** means the gas distribution system We own and operate known as the Mid-West to South-West Gas Distribution System.
- (g) **“Property”** means the property specified by You in the completed Application Form.
- (i) **“Works”** means the works to relocate a gas meter, gas service or temporarily disconnect or reconnect a gas service as specified in Your completed Application Form.

## APPLICATION FORM

3. In order to request that ATCO perform the Works, You must electronically lodge an Application Form with us with all details correctly completed.

4. Our system will send You an automated response acknowledging receipt of Your Application Form. If You do not receive such a response, please call Us using the phone number on the Application Form.

5. You must ensure that all information You include in the Application Form is accurate. If You are not sure about queries in the Application Form or how to answer them please contact Us using the phone number specified on the Application Form.
6. If any other person has an ownership interest in the Property, You must notify Us and provide to Us such evidence as We reasonably require to substantiate that they have consented to Us providing the Works. We will not commence the Works until we are satisfied that this has been provided.

## **WHEN WE WILL CONDUCT THE WORKS**

7. Once We have reviewed your Application Form and confirmed that it has been correctly completed, We will notify You of the estimated period when We will attend at the Property to perform the Works (Service Period).
8. We will use Our reasonable endeavours to attend at the Property during the Service Period. However We may be unable to do so due to operational constraints including:
  - (a) if We need to divert resources because of emergency issues, including risks to persons or property or threats to the maintenance of gas supply;
  - (b) if We need to divert resources to unplanned maintenance which should not, having regard to good industry practice, be delayed;
  - (c) if We are delayed by events beyond Our reasonable control.
9. We will notify You as soon as reasonably practicable if We become aware that We cannot attend at the Property during the Service Period and of the reasons why. Such notice may be given by us verbally. We will also, as soon as reasonably practicable, notify You either verbally or by email of a new Service Period (which period will be as soon as reasonably practicable after the original Service Period having regard to the resources available to Us and the tasks to which We need to allocate those resources).
10. If We suspend the Works in accordance with this document and We cease that suspension, then We will schedule a new Service Period.
11. You may cancel the Works any time prior to when We attend at the Property to commence the Works. However if You cancel less than 1 Business Day before the start of the Service Period, a Cancellation Fee may be payable. The Cancellation Fee represents ATCO's unavoidable costs as a result of Your cancellation. The Standard Fee will be refunded to You and any Cancellation Fee will be charged to You.

# DO YOU NEED TO ATTEND AT THE PROPERTY?

12. We will notify You at least 1 business day before the date that We intend to attend at the Property (**Service Date**) if We require You to be present at the Property on the Service Date.

13. If We require You to be present on the Service Date, You may nominate a representative to be present on the Service Date instead. You must notify Us of the name of this person prior to the Service Date. The nominated person must be an adult who is familiar with the layout and condition of the Property and who is able to discharge on Your behalf Your obligations relating to access to the Property.

## SITE ACCESS

14. You must ensure We have safe and unhindered access to the Property. You must ensure there are no obstructions or animals at the Property which would interfere with Us performing the Works.

15. You must notify Us of any restrictions or conditions at the Property which may affect the Works. You must also notify Us of hazards at the Property of which You are aware. A hazard means something at the Property which a reasonable person would know, or ought to know, may present a safety risk to persons working at the Property.

16. If there are hazards at the Property You must provide Us with such assistance as We reasonably request to ensure the safe control of those hazards while We are in attendance at the Property.

17. You must provide to Us:

(a) such information in relation to the location of other utilities at the Property (including electricity, water and telecommunications infrastructure) as We reasonably request; and

(b) such other information in relation to the Property as We reasonably request.

If You do not know the answer to something We ask, You must let Us know this.

## HOW WE PROVIDE THE WORKS

18. We will provide the Works in accordance with the standards applicable to Us by law.

19. We may undertake the Works using Our employees and/or using appropriately qualified subcontractors. The use of subcontractors does not relieve Us of Our obligations to You.

20. The persons who attend the Property on Our behalf will carry appropriate identification which demonstrates they are working on Our behalf.

21. We will notify You either verbally or by email (which may be an automated email) when We have completed the Works.

## **WHERE WE PROVIDE THE WORKS**

22. The Works will be located in the area of the Property directed by You unless in the course of undertaking the Works, We identify conditions which mean it is not safe, practical or technically feasible to locate the Works there. If that is the case, or if You do not direct Us where you would like the Works located, then We will locate the Works on the Property, acting reasonably, having regard to safety, technical and practical considerations. We will use best endeavours to consult with you on the location. If following completion of the Works, You require Us to move the location of the Works, You will need to submit a new Application Form. We will not be responsible for the cost of relocating the Works unless We have not complied with this clause.

## **REQUIRED DISTURBANCE TO PROPERTY**

23. To undertake the Works it may be necessary for Us to create access openings or otherwise break, damage or disturb surfaces, coatings, structures, ground, landscaping and other things (including paving, concrete, bitumen, walls, fences, gates, locks, signs, pipes, conduits, cables and trees) at the Property. We will act reasonably and seek to minimise the damage required to undertake the Works.

## **SUSPENSION DUE TO SAFETY ISSUES**

24. If We identify safety issues at the Property which mean We are not able to, acting reasonably and having regard to occupational health and safety laws, undertake the

Works. We will notify You of the safety issues. We may suspend the Works until those issues have been remedied to Our reasonable satisfaction.

25. We may also suspend the Works if You fail to comply with clause 14.

26. If the safety issues, or non-compliance with clause 14, have not been remedied to Our reasonable satisfaction within 30 days of Us notifying You of them, We may by notice to You terminate the Agreement and We may charge You a Cancellation Fee. The Standard Fee will be refunded to You and any Cancellation Fee will be charged to You.

27. If anything is discovered or arises at any time in relation to the supply of gas at the Property which ATCO, acting reasonably considers to be illegal or unsafe, ATCO may (without prejudice to any other right it may have) disconnect or otherwise stop the supply of gas to the Property until the issue is rectified and is safe.

## CHARGES

28. The following charges may be payable for provision of the Works:

(a) the Standard Fee which is payable at the time of submitting the Application Form (the amount of which is specified in the Application Form);

(b) a Cancellation Fee of \$203.82 GST exclusive which may be payable in accordance with this document;

(c) a Call-Out Fee of \$203.82 GST exclusive which may be payable in accordance with this document; and

29. The Standard Fee is consideration for the Works and is determined on the basis We only need to attend the Property once.

30. We may charge You a Call-Out Fee for each time (above the first time) We have to attend at the Property because:

(a) You request cancellation of the Works less than 1 Business Day prior to the start of the Service Period;

(b) We are not provided with safe access to the Property;

(c) We suspend the Works in accordance with this document;

(d) We attend at the Property to assess whether a safety issue has been addressed.

# PAYMENT AND INVOICING

31. You must pay the Standard Fee with the lodgement of the Application Form. If We do not perform the Works, We will refund this amount to You and we may charge you any applicable Cancellation Fee, in accordance with this document.

32. We may from time to time invoice You for Call-out Fees which accrue due at such time as We determine.

32. You must pay an invoice within 14 days of the date the invoice is emailed to You.

# TERMINATION

33. Prior to the Works being completed, either party may terminate this Agreement at any time on not less than 14 days' notice to the other party.

34. If the Works have commenced, and the Agreement has been terminated by You or due to Your breach, You must pay Us for the Works that have been commenced by Us in accordance with this Agreement up to the effective date of termination. The balance of the Standard Fee will be refunded to You and any applicable Cancellation Fee will be charged to You.

# LIABILITY

35. Subject to clauses 35(b), 36 and 44, but despite any other provision of this Agreement, and to the maximum extent permitted by law:

(a) Our total cumulative liability under or in any way connected with this Agreement or the provision of the Works is limited to the amounts paid by You to Us as at the date of the claim;

(b) If, in the course of providing the Works, We open or break up any sealed or paved surface, or damage or disturb any lawn, landscaping or other improvement at the Property, then We will fill in any ground to restore it to approximately its previous level, but We are not otherwise obliged reinstate or make good, or pay compensation in

respect of any damage to any such surface, lawn, landscaping or other improvement other than in accordance with the Energy Operators (Powers) Act 1979.

(c) Neither party is liable to the other party for any liability for loss of revenue, loss of goodwill, loss of customers, loss of capital, downtime costs, loss of profit, loss of or damage to reputation, loss under or in relation to any other contract, loss of data, loss of use of data, loss of anticipated savings or benefits, or any indirect, consequential or special loss, damage, cost or expense or other claims for consequential compensation, incurred by or awarded against the party under or in any way connected with this Agreement or the provision of the Works.

36. This limitation and exclusion of liability applies whether such claim is made under statute, in tort (for negligence or otherwise), under an indemnity, in equity or otherwise, however, this clause does not limit a party's liability to the other party:

- (a) for death or personal injury;
- (b) in the case of You, for damage to tangible property;
- (c) in the case of Us, for any liability under clause 35(b); or
- (d) for fraud or wilful breach of this Agreement.

## **GST**

37. Any consideration to be paid or provided for a supply made under or in connection with this Agreement, unless specifically described in this Agreement as 'GST exclusive', includes an amount on account of GST.

## **MISCELLANEOUS MATTERS**

38. All notices under the Agreement may be given by email. We may also give some notices verbally (where permitted by this document). We will send notices to the email address You nominate in the Application Form. You may give notices to Us at the email address We specify in the Application Form.

39. If You do not have an email address You should contact Us to agree an alternate means to give notices.

40. As a result of Your completion of the Application Form and this Agreement We will collect personal information about You. This information will be collected and handled in accordance with Our privacy policy which may be found at <https://www.atco.com/en-au/privacy.html>.

41. A provision or part of a provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions or parts of the provisions of this Agreement continue in force.

42. This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter

43. This Agreement is governed by the Law of Western Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia.

## **AUSTRALIAN CONSUMER LAW – CONSUMER GUARANTEES**

44. Other than as expressly set out in this Agreement, to the extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities and other terms implied by statute, custom or the common law are excluded from this Agreement. If a supply under this Agreement is a supply of goods or services to a consumer within the meaning of the Australian Consumer Law, nothing contained in this Agreement excludes, restricts or modifies the application of any provision, including the consumer guarantees, the exercise of any right or remedy, or the imposition of any liability under the Australian Consumer Law, provided that, to the extent that the Australian Consumer Law permits Us to limit Our liability, then its liability is limited to:

(a) in the case of services, the cost of supplying the services again or payment of the cost of having the services supplied again; and

(b) in the case of Goods, the cost of replacing the Goods, supplying equivalent Goods or having the Goods repaired, or payment of the cost of replacing the Goods, supplying equivalent Goods or having the Goods repaired.