Terms and Conditions

About this Contract:

This Contract is a contract for the sale of electricity to the Customer at the Customer's Premises. This Contract is made up of the following parts:

- This **Contract Terms and Conditions** contained below, which set out the general terms and conditions of this Contract;
- The **Schedule** which sets out specific terms and conditions applicable to the Customer under this Contract, such as applicable Charges for energy, and the Premises to which this Contract applies; and
- Any **Special Terms and Conditions**, or **Annexures** that the parties agree form part of this Contract. These are additional terms and conditions to supplement these Contract Terms and Conditions – for example, terms and conditions for additional products that the Customer agrees to (such as EnergyAustralia's demand response product, 'ResponsePro', set out in Appendix B to this Contract).

The Customer may also agree to receive other products or services from us. The terms and conditions for these other products or services may either form a separate contract between the Customer and EnergyAustralia (in addition to this Contract), or form part of this Contract.

The parties to this Contract are:

a. EnergyAustralia Pty Ltd (ABN 99 086 014 968).
b. The 'Customer' specified in the Schedule.

Key Terms

a. **Eligibility:** the Customer agrees that if its electricity usage changes, and it becomes a 'Small Electricity Customer', then the Customer will no longer be eligible for this Contract and EnergyAustralia may replace this Contract with a contract tailored to 'Small Electricity Customers' *(see clause 4A (Continued Eligibility for this Contract))*.
b. **Varying Charges:** EnergyAustralia may vary the Charges set out in the Schedule, or introduce new Charges in certain circumstances. EnergyAustralia will use reasonable endeavours to provide the Customer with notice of these changes *(see clause 5.2 (Varying Charges))*.
c. **Disconnection:** EnergyAustralia may arrange disconnection of the Customer's electricity supply in certain circumstances (see clause 10 (Disconnection and Reconnection)).
d. **Termination:** a party may terminate this Contract in certain circumstances – for example, the other party becomes insolvent or breaches a material provision of this Contract. Early Termination Charges may apply. *(see clause 11 (Termination))*.
e. **Liability:** neither EnergyAustralia or the Customer will be liable to each other for certain kinds of loss, including Indirect Loss. Where either party is liable, the party's total liability may be limited to a certain amount *(see clause 14 (Liability))*.
f. **Amending this Contract:** EnergyAustralia may amend this Contract by notice to the Customer, to reflect changes in laws or regulations, or to make changes which are reasonably necessary to protect EnergyAustralia's legitimate business interests *(see clause 18.6 (Amending this Contract))*.
g. **Privacy Act Notice:** EnergyAustralia will collect and use personal information in accordance with EnergyAustralia's Privacy Policy, which may allow EnergyAustralia to share personal information with third

parties to the extent required to verify the Customer's creditworthiness, or as required for EnergyAustralia to carry out its obligations or exercise its rights under this Contract *(see Appendix A (Privacy Statement))*.

h. **Notification of energy generation or storage equipment:** The Customer must notify EnergyAustralia if it intends to install / modify / remove any energy generation or storage equipment at the Premises *(see clause 5.2(g))*.

1. INTRODUCTION AND AGGREGATION

a. This Contract sets out the terms on which EnergyAustralia will sell electricity to the Customer at the Connection Points, and the arrangements for providing and installing a Meter.

b. The Customer expressly acknowledges and agrees that if this Contract applies to more than one Premises, the Customer is an Aggregated Customer and as such:

   i. the consumption of electricity at all Premises (including those that are added after this Contract is executed, but excluding those in Victoria) will be treated as aggregated for the purposes of Division 3 of Part 1 of the *National Energy Retail Rules*, Part 2 of the *National Energy Retail Rules* and Part 2 of the *National Energy Retail Law*;

   ii. because of clause 1(b)(i) above, the Customer acknowledges that for all Premises excluding those in Victoria, it waives all rights and protections provided to Small Electricity Customers under the relevant provisions of the *National Energy Retail Rules* or the *National Energy Retail Law* (as applicable) and that it will not receive such rights or protections to the extent that they are inconsistent with the express provisions of this Contract; and

   iii. should the Customer require any meters to be installed, the Meter Installation Timeframes set out in the National Electricity Rules do not apply.

c. Each party represents and warrants to the other party that:

   i. it has been duly incorporated and is validly existing with full corporate power and authority to enter into this Contract and to perform its obligations hereunder;

   ii. the execution and completion of this Contract will not breach any provision in its constituent documents; and

   iii. all resolutions, authorities and consents required to enable it to enter into this Contract have been passed or obtained and, subject thereto, this Contract is therefore a fully valid and binding obligation enforceable against it in accordance with its terms.

2. SALE AND PURCHASE OF ELECTRICITY

a. EnergyAustralia agrees to sell to the Customer, and the Customer agrees to purchase from EnergyAustralia, electricity supplied to the Connection Points, in accordance with the terms of this Contract.

b. In order to sell electricity to the Customer at a Connection Point, EnergyAustralia will:

   i. become Financially Responsible for the Connection Point;

   ii. pay any Market Charges to the Market Operator;

   iii. arrange and pay for Network Services for the Connection Point (unless the Customer makes its own arrangements); and

   iv. arrange and pay for Connection Services and Metering Services for the Connection Point (unless the Customer makes its own arrangements).

c. EnergyAustralia will not connect the Customer's Premises to the Network or supply, deliver or convey electricity to a Connection Point. EnergyAustralia will arrange for the relevant Network Operator to provide these Connection Services and Network Services.

d. The Network Services may be subject to fluctuations or distortions (in voltage magnitude, voltage waveform or frequency) or interruptions. The Customer acknowledges that EnergyAustralia cannot (in its arrangements with Network Operators or otherwise) control the continuity of Network Services or the quality characteristics of electricity supply.

e. The Metering Services will be provided by the Metering Coordinator for the Connection Points. EnergyAustralia will appoint the Metering Coordinator, unless the Customer appoints its own Metering Coordinator in accordance with the Rules.

f. If the Customer requires increased security of electricity supply, it should discuss the possible options with EnergyAustralia.

3. TERM

This Contract commences on the Commencement Date and, subject to clause 11.2 (Run Off Period), expires on the Expiry Date.

4. COMMENCEMENT OF SALES

a. If EnergyAustralia is already Financially Responsible for a Connection Point on the Commencement Date, the terms of this Contract will apply to the sale of electricity at that Connection Point on and from the Start Date.

b. If EnergyAustralia is not already Financially Responsible for a Connection Point on the Commencement Date, EnergyAustralia will sell electricity to the Customer at a Connection Point once the Transfer Requirements have been met and it becomes Financially Responsible for that Connection Point, which, for the avoidance of doubt, may be after the Start Date.

c. EnergyAustralia will use its best endeavours to meet the Transfer Requirements for each Connection Point once EnergyAustralia has been provided with any security it has requested in accordance with clause 7.1 and it is satisfied that:

   i. the Customer owns or is entitled to occupy the relevant Premises;
   ii. the Customer is not a Small Electricity Customer;
   iii. the Customer has a current Connection Contract;
   iv. a Metering Coordinator has been appointed, and the Metering Coordinator has made appropriate arrangements to ensure Metering Services are provided at the Connection Points for the supply of electricity by EnergyAustralia; and
   v. the Customer has a satisfactory credit assessment on the Start Date and if not, the Customer has provided security as requested by EnergyAustralia under clause 7.1(c) before the Start Date.

d. If the Customer fails to satisfy any of the conditions under clause 4(c) by the Start Date, then:

   i. EnergyAustralia is under no obligation to sell electricity under this Contract; and
   ii. EnergyAustralia may immediately terminate this Contract by providing written notice to the Customer.

4A. Continued Eligibility for this Contract

a. At any time after the Commencement Date, if:

   i. the Customer's consumption of electricity at the Premises (or Premises if aggregated under clause 1(b)) is or has been under the Small Customer Thresholds for the Jurisdiction in a year, and/or EnergyAustralia reasonably considers that the Customer’s future consumption over the next year will likely be under the Small Customer Thresholds for the Jurisdiction; or

ii. the Distributor classifies or reclassifies the Customer as a Small Electricity Customer in accordance with Division 3 of Part 1 of the *National Energy Retail Rules*, then EnergyAustralia may reclassify the Customer as a Small Electricity Customer.

b. For the purposes of clause 4A(a)(i), EnergyAustralia may take account of any consumption data in respect of the Customer for the previous 12-month period it has available to it.

c. If EnergyAustralia reclassifies a Customer as a Small Electricity Customer under clause 4A(a), it may, by giving prior reasonable notice in accordance with any applicable timeframes required by the laws of the relevant Jurisdiction:

i. amend the Charges set out in the Schedule; and/or
ii. replace the terms and conditions in this Contract with the terms and conditions contained in EnergyAustralia's Market Retail Contract; and/or
iii. terminate this Contract.

d. The Customer expressly acknowledges and agrees that:

i. the applicable Charges may increase; and
ii. the variation of this Contract allowed under clause 4A(c) is reasonably necessary to enable EnergyAustralia to comply with its obligations towards Small Electricity Customers under the laws of the Jurisdiction.

e. If EnergyAustralia amends this Contract under clause 4A(c), it will send the Customer a welcome pack setting out the new Charges and terms and conditions applicable to the Customer. The Customer will have a ten Business Day "Cooling-Off Period" after receipt of the welcome pack to end this Contract.

5. CHARGES

5.1 Charges Generally

a. The Customer must pay the Charges for each Connection Point. The Charges may comprise fixed amounts, amounts calculated as a daily or other periodic rate, amounts calculated as a rate for the electricity consumed or demand recorded at the relevant Connection Point, or any combination of the above.

b. Some of the Charges may be based on:

i. EnergyAustralia's reasonable estimation of its relevant costs (where those costs are not known in advance);
ii. EnergyAustralia’s reasonable allocation of those costs across its customers (where those costs are incurred in respect of multiple customers or Connection Points); and/or
iii. EnergyAustralia’s reasonable estimation of any applicable Metering Charges when the Customer requires a Meter upgrade, installation of a new Meter or a Meter transfer after the Start Date.

c. EnergyAustralia will regularly review the basis of any estimates and allocations used in determining such Charges, revise the rates of such Charges and endeavour to only recover EnergyAustralia’s actual costs. However, EnergyAustralia will not revise Charges retrospectively (other than in connection with a change in EnergyAustralia’s Environmental Costs, including EnergyAustralia’s REE Costs).

d. Energy Charges and Environmental Charges will be adjusted by a multiplier to account for applicable transmission and distribution Loss Factors. These Loss Factors are approved by federal and state regulators and are subject to change. They are not negotiable.

e. If, at any time during which EnergyAustralia is supplying electricity to the Connection Points, a quantity of unaccounted for energy is allocated to one or more of the Connection Points in accordance with the Rules, then EnergyAustralia may adjust the amount to the electricity consumed or demand recorded at the

relevant Connection Point for the purpose of calculating any Charge, including Energy Charges, Environmental Charges and Market Charges, to take account of unaccounted for energy.

f. If the Customer requests any hardcopy bills, Meter data reports or other ad hoc requests not covered under this Contract, then EnergyAustralia may charge, and the Customer agrees to pay, EnergyAustralia's reasonable costs in complying with such request.

5.2 Varying Charges

a. Subject to paragraph (b) of this clause, the Energy Charges and Environmental Charges (if any) applying to a Connection Point at the Commencement Date are set out in the Schedule.

b. EnergyAustralia may adjust the Energy Charges (including the rate of any Energy Charges) or introduce a new Charge (including a Carbon Scheme Charge) at any time prior to the Expiry Date if:

   i. there is a Change in Law, by an amount necessary to recover all of EnergyAustralia's costs arising as a direct or indirect result of the Change in Law, including if such Change in Law occurs or takes effect between the Commencement Date and the Start Date;
   ii. the Customer requires a Meter upgrade, or the Customer has a new Meter installed after the Start Date and the Customer is required to be billed, on an actual or estimated basis as determined by EnergyAustralia;
   iii. the Customer fails the credit assessment conducted by EnergyAustralia, and/or the Customer fails to provide security, a guarantee from a financial institution with an Approved Rating or parent company guarantee as determined by EnergyAustralia; or
   iv. there is a material difference between the Customer's Forecast Load Shape and Actual Load Shape, and such adjustment or new Charge may reflect an amount necessary to recover all of EnergyAustralia's Additional Load Costs.

   EnergyAustralia will use reasonable endeavours to provide the Customer with prior notice of changes outlined by this clause.

c. Subject to any capped or fixed Environmental Charges set out in the Schedule, EnergyAustralia may adjust the Environmental Charges (including the rate of any Environmental Charges) at any time prior to the Expiry Date by an amount necessary to recover all of EnergyAustralia's Environmental Costs arising as a direct or indirect result of selling electricity to the Customer at the Connection Points.

d. Where:

   i. any component of the Environmental Charges is based on EnergyAustralia's forecast of any of its Environmental Costs; and
   ii. EnergyAustralia's relevant actual Environmental Costs materially differ from the amount forecast,

   then EnergyAustralia must factor that difference into EnergyAustralia's forecast of any of the relevant Environmental Costs for the next forecast period.

e. The Customer acknowledges that all other Charges generally represent costs incurred by EnergyAustralia from third parties in order to sell electricity to the Customer, and arranging Metering Services, at the Connection Points. These costs, and the Charges required to recover those costs, may change from time to time. EnergyAustralia will pass through all such charges to the Customer without applying any mark up or margin (other than to recover reasonable administrative costs) where it is reasonably practical to do so.

f. On the Start Date, the Customer must advise EnergyAustralia if:

   i. any Premises are listed in the Register of Scheduled Activity Premises maintained by the Essential Services Commission under the Victorian Energy Efficiency Target Regulations 2008 (Vic);

ii. any Premises are listed in the current Ministerial Order issued under the Electricity Supply Act 1995 (NSW), as gazetted from time to time; or

iii. the Customer holds an exemption certificate issued by the Clean Energy Regulator under section 22E(2) of the *Renewable Energy (Electricity) Regulations 2001 (Cth)*, and the Customer must promptly notify EnergyAustralia if it or a Premises comes to have, or ceases to have, any such status during the Term of this Contract.

g. The Customer must give EnergyAustralia as much written notice as is reasonably practicable if:

i. it proposes to install any electricity generation or energy storage equipment (including solar panels, wind turbines or batteries) (**Plant**) at the Premises;

ii. it plans to modify, vary or upgrade its Regulated Buy-back Point of Connection or Plant (if applicable); or

iii. it proposes to alter its operations including by participating or ceasing to participate in any demand response activity or otherwise agreeing to increase or reduce its electricity consumption in response to requests from the Market Operator or a Market Participant,

that may cause the Customer's Actual Load Shape to differ from its Forecast Load Shape. Such notice must be in writing and must provide details of the type and size of the Plant proposed to be installed at the Premises or the proposed change in operations (as the case may be), and the Customer's reasonable estimate of how this might affect the Customer's Actual Load Shape.

5.3 Plant Charges

a. If the Customer's Plant is eligible under the Regulated Buy-back Scheme, then clause 10.7 (Regulated Buy-back Credits) will apply to any energy generated by the Plant.

b. If the Customer installs, modifies varies or upgrades any Plant at the Premises at any time and/or the Customer's Plant is not eligible under the Regulated Buy-back Scheme, then:

i. the Customer must comply with:

A. the notification obligation at clause 5.2(g); and

B. the metering obligations set out in clause 8.5(d); and

ii. EnergyAustralia may, acting reasonably:

A. request that the Customer enters a separate buy-back contract for the export of energy from the Plant into the Network (and, to the extent of any inconsistency between the terms of the buy-back contract and the terms of this Contract, the terms of the buy-back contract will prevail); or

B. if the Customer does not enter a separate buy-back contract, then EnergyAustralia may apply the Default Rate to any energy exported into the Network by the Plant.

c. If the Customer fails to comply with its obligations set out in clause 5.3(b)(i) above, then EnergyAustralia may, acting reasonably, recover any losses it incurs as a result of the Customer's failure to comply with these obligations.

5.4 Goods and Services Tax

a. Unless expressly stated otherwise, all amounts under this Contract are stated as GST exclusive amounts.

b. If any GST is or becomes payable in respect of a Taxable Supply of goods or services under this Contract, the Charges payable by the Customer for that Taxable Supply of goods or services will be increased by an amount equal to the GST payable.

c. EnergyAustralia must provide the Customer with a Tax Invoice in respect of any Taxable Supply under this Contract.

5.5 Wholesale Demand Response Mechanism

a. In addition to the obligations on the Customer set out in clause 5.2(g) above, the Customer must provide EnergyAustralia with as much notice as is reasonably practicable if it proposes to participate in a wholesale demand response program (such as in the capacity as a Demand Response Service Provider or as a customer of a Demand Response Service Provider) and must provide the following details in its notice to EnergyAustralia regarding its participation:

   i. the identity of the Demand Response Service Provider, where the Customer is a customer of a Demand Response Service Provider;
   ii. the Connection Points and loads the subject of the wholesale demand response program;
   iii. the expected commencement and end date for the participation; and
   iv. a description of any equipment being used to participate in the wholesale demand response program such as a generator, energy storage or any heating, cooling and ventilation systems.

b. Where the Customer is participating in the wholesale demand response mechanisms, whether as a Demand Response Service Provider or a customer of a Demand Response Service Provider, as soon as possible after the Customer becomes aware that its load is or will become subject to a Dispatch Instruction from the Market Operator as a Wholesale Demand Response Unit (or part thereof), the Customer must promptly inform EnergyAustralia, and keep EnergyAustralia informed, of this fact including the details set out in clause 5.5(a)(i)-(iv) as well as the specific Trading Intervals the subject of the Dispatch Instruction (if known).

6. INVOICES AND PAYMENTS

6.1 Invoices

a. EnergyAustralia will prepare and forward invoices to the Customer's nominated address set out in the Schedule on a calendar month basis. An invoice may be in respect of one or more Connection Points.
b. The due date for payment of an invoice will be set by reference to the payment terms set out in the Schedule (**Due Date**).

6.2 Contents of Invoices

Each invoice prepared by EnergyAustralia must include:

a. the period for which the invoice applies;
b. the Charges payable for each Connection Point for the period;
c. sufficient information to enable the Customer to verify the Charges;
d. the total value of any Regulated Buy-back Credits for the period, if applicable;
e. a statement that it is a Tax Invoice and the amount of GST payable;
f. the Due Date for payment; and
g. payment methods.

6.3 Payment Terms

a. The Customer must pay EnergyAustralia the Charges set out in an invoice by the Due Date for payment.
b. If the Customer is entitled to Regulated Buy-back Credits in the period, EnergyAustralia will make payment of any Regulated Buy-back Credits payable by including a credit for such amount in the invoice. If the

Regulated Buy-back Credit amount exceeds the Charges, the excess Regulated Buy-back Credit will be carried over to the following invoice(s).

c. A payment due on a day that is not a Business Day shall be due on the next Business Day.

d. The Customer will only be considered to have made a payment once EnergyAustralia, or an agent authorised to accept payments on behalf of EnergyAustralia, receives the payment in cleared funds.

e. EnergyAustralia may charge the Customer any fees it incurs in connection with the payment of an invoice where permitted to do so.

f. EnergyAustralia may nominate a required payment method or change payment methods from time to time under this Contract.

6.4 Invoice Disputes and Errors

a. If the Customer disputes the amount of an invoice, the Customer must:

   i. provide EnergyAustralia with written notice of the amount in dispute and the reasons for the dispute as soon as possible; and

   ii. if the dispute is not resolved before the Due Date for payment of the relevant invoice, pay EnergyAustralia (by the Due Date for payment) the greater of the undisputed amount of the invoice and the average of the Customer's last three invoices for the relevant Connection Points.

b. If EnergyAustralia believes there is an error in an invoice, or receives information relevant to an invoice after sending it to the Customer, EnergyAustralia shall adjust the invoice from the time when the error occurred (whether paid or not) and send a replacement or adjustment invoice to the Customer.

6.5 Interest

a. If the Customer does not pay an invoice in full (or any lesser amount permitted by clause 6.4(a)) by the due date for payment, then in addition to any other right it may have under this Contract, EnergyAustralia may require the Customer to pay interest on the unpaid amount and compensate EnergyAustralia for any costs incurred in recovering the unpaid amount.

b. Interest on outstanding amounts will accrue on a daily basis from the due date for payment until the date EnergyAustralia receives payment in full.

c. Interest will be calculated at the rate prescribed (at the relevant date) under section 2 of the *Penalty Interest Rates Act 1983 (Vic)* for paying interest on a judgment debt, plus 5%.

7. SECURITY

7.1 Provision and Use of Security

a. EnergyAustralia may, at any time of this Contract, conduct a credit assessment of the Customer.

b. The Customer must provide EnergyAustralia with the security (if any) which EnergyAustralia requests (whether in writing or otherwise) before the Commencement Date. Such security may include a guarantee from a financial institution with an Approved Rating or parent company guarantee.

c. EnergyAustralia may also require security (including a guarantee from a financial institution with an Approved Rating or a parent company guarantee), or additional security, from time to time if:

   i. the Customer fails to pay two consecutive invoices for a Connection Point by the due date for payment;

   ii. the Customer fails to pay three invoices for a Connection Point by the due date for payment within any 12-month period;

iii. EnergyAustralia considers that the Customer, having a satisfactory credit assessment on the Commencement Date, ceases to have a satisfactory credit assessment prior to the Start Date or at any time during the term of this Contract; or

iv. any provider of credit support for the Customer ceases to have an Approved Rating.

d. EnergyAustralia may, at any time during the term of this Contract, conduct a credit assessment of the Customer's parent company if EnergyAustralia, acting reasonably, has a genuine and bona fide concern about the Customer's ability to meet its payment obligations under this Contract due to the Customer's parent company's financial situation. If the Customer's parent company has an unsatisfactory credit assessment, then EnergyAustralia may request, and the Customer must provide EnergyAustralia with, the security, which may include a guarantee from a financial institution with an Approved Rating.

e. EnergyAustralia may access any security at any time in order to satisfy (or partially satisfy) any outstanding obligation of the Customer under this Contract.

f. If EnergyAustralia accesses any security, it may require the Customer to provide any top-up security necessary to restore the security to the required amount.

g. If any security, additional or top-up security is required, EnergyAustralia must provide the Customer with at least ten Business Days' notice of the amount required and the date by which it must be provided.

h. Any security provided must be in a form acceptable to EnergyAustralia. No interest will be payable by EnergyAustralia on any cash security it holds.

i. Any costs incurred in providing the security shall be borne by the Customer.

j. The Customer must provide EnergyAustralia with all assistance and information reasonably requested by EnergyAustralia in conducting a credit assessment for the duration of the Contract.

7.2 Return of Security

a. EnergyAustralia must refund or return any security to the Customer within a reasonable period following termination of this Contract, but only if another electricity retailer has become Financially Responsible for the Connection Points and the Customer has paid EnergyAustralia all amounts owing under this Contract.

b. EnergyAustralia will not be required to refund or return any security on a transfer or assignment by the Customer of this Contract, unless and until the relevant transferee or assignee has provided EnergyAustralia with an acceptable replacement security.

8. METERING

8.1 Metering Coordinator

a. Under the Rules, a Metering Coordinator must be appointed for the Connection Points. The Metering Coordinator is responsible for arranging and providing Metering Services, and appointing a Metering Provider and Metering Data Provider.

b. EnergyAustralia is responsible for appointing the Metering Coordinator for the Connection Points unless the Customer chooses to appoint its own Metering Coordinator (and is allowed to do so under the Rules). If the Customer chooses to appoint its own Metering Coordinator at any time prior to this Contract being terminated in accordance with clause 11 (including before the Commencement Date) the Customer must:

i. inform EnergyAustralia in writing as soon as is reasonably practicable but in all circumstances within ten Business Days of the commissioning of a new or replacement Meter by the Customer's appointed Metering Coordinator; and

ii. provide EnergyAustralia with any documentation it requests and which is required to confirm the Charges applicable under the arrangements with the Customer's appointed Metering Coordinator.

c. Unless and until the Customer complies with the obligations in clause 8.1(b), EnergyAustralia will not be required to amend the Metering Charges applicable under this Contract, and any amendments to those Charges applicable to any previous billing periods will be in EnergyAustralia's absolute discretion.

8.2 Meter Accuracy and Testing

a. Each party must notify the other party as soon as possible if it suspects that a Meter at a Connection Point is or may be defective, damaged or operating inaccurately (i.e. not operating within the specifications set out in the Metering Rules).
b. EnergyAustralia may request the Metering Coordinator (including a Metering Coordinator appointed by the Customer) to make arrangements for the testing of a metering installation in its absolute discretion, or at the request of the Customer.
c. If EnergyAustralia, at the request of the Customer, requests the Metering Coordinator to arrange to test the metering installation, the Customer is responsible for meeting any costs of testing incurred by EnergyAustralia.
d. The person who appointed the Metering Coordinator must arrange for the Metering Coordinator to replace or repair a Meter that is not operating within the specifications set out in the Metering Rules.
e. EnergyAustralia must make an appropriate adjustment in the Customer's next invoice if testing reveals that a Meter is not operating within the specifications set out in the Metering Rules. However, EnergyAustralia is not required to adjust the Customer's invoices to the extent that the Customer or any third party (other than a Metering Coordinator appointed by EnergyAustralia) caused the relevant inaccuracy and the adjustment would cause EnergyAustralia loss (after EnergyAustralia has used all reasonable endeavours to mitigate its loss).

8.3 Estimations

a. Where circumstances prevent an accurate Meter reading, EnergyAustralia may estimate, or ask the Metering Coordinator to estimate, electricity consumption and demand at a Connection Point.
b. Where possible, EnergyAustralia must reconcile Charges based on an estimation of electricity consumption with electricity consumption recorded by the next available Meter reading. An appropriate adjustment must be made in the Customer's next invoice.

8.4 Customer Obligations Regarding Meters

The Customer must:

a. provide a suitable and safe location for installing a Meter at each Connection Point;
b. provide safe and unhindered access to each Meter at all reasonable times to any employee, agent, contractor or other authorised personnel of EnergyAustralia or any Metering Coordinator, Metering Provider or Metering Data Provider;
c. ensure the proper care and custody of each Meter, not damage or interfere in any way with a Meter or permit any electricity consumption at a Connection Point that is not recorded by a Meter;
d. where a Meter is not owned by the Customer, not mortgage, charge or otherwise deal inconsistently with the rights of the owner of that Meter; and
e. notify EnergyAustralia in advance if the Connection Point shall be modified due to the installation of a solar photovoltaic generator.

8.5 Changing Meters

If, during the term of this Contract:

a. the Customer's electricity consumption or demand changes materially;

b. the basis for calculating Network Charges is varied;
c. the requirements of the Metering Rules are amended;
d. the Customer installs any Plant and, as a result, needs to modify the Connection Point or Regulated Buy-back Point of Connection; or
e. the Customer requires a Meter upgrade,

EnergyAustralia may request the Metering Coordinator to arrange installation of a further or replacement Meter at a Connection Point or reconfigure the Meter. The Customer must meet EnergyAustralia's costs incurred in relation to that installation or replacement Meter, or reconfiguration and pay any adjusted Metering Charges.

8.6 Unmetered Supply

Nothing in clauses 8.1 to 8.5 will apply to any Connection Point with a Type 7 metering installation. The parties acknowledge that the Local Network Service Provider is appointed as the Metering Coordinator and will calculate the electricity consumption at such Connection Point in accordance with the Rules.

9. RELIABILITY INSTRUMENT

a. If during the Term of this Contract or during any Run Off Period, a Reliability Instrument is made that applies to a Jurisdiction (**Reliability Instrument Jurisdiction**) and either:

   i. the Customer's aggregate electricity consumption at the Connection Points in the Reliability Instrument Jurisdiction is greater than the relevant Maximum Consumption; or
   ii. this Contract is in a Run Off Period,

   then EnergyAustralia may charge the Customer for, and the Customer must pay, any costs EnergyAustralia incurs in connection with the RRO (including but not limited to the costs associated with procuring Qualifying Contracts) in respect of the Customer's Connection Points under this Contract.

b. The Customer must notify EnergyAustralia as soon as reasonably practicable, and without delay, after:

   i. it has applied to the AER to be registered as an Opt-In Customer (if it is eligible to do so under the RRO Laws); or
   ii. it has applied to the AER to be de-registered as an Opt-In Customer (if it is eligible to do so under the RRO Laws).

   Such notice must specify the Connection Points and the Forecast Reliability Gap Period in respect of which the Customer is (or wishes to be) an Opt-In Customer or deregistered as an Opt-In Customer (as the case may be) and must include a copy of the Customer's application to the AER.

c. Where the Customer has made an application of the kind referred to in clause 9(b)(i) or 9(b)(ii), the Customer must notify EnergyAustralia as soon as reasonably practicable, and without delay, after the AER has approved the Customer's decision. Such notice must specify the Connection Points and the Forecast Reliability Gap Period in respect of which the Customer is an Opt-In Customer or deregistered as an Opt-In Customer (as the case may be) and must include a copy of or evidence of the AER's approval.

10. DISCONNECTION AND RECONNECTION

10.1 Grounds for Disconnection

EnergyAustralia may request the relevant Network Operator or Metering Coordinator to disconnect a Connection Point:

a. if the Customer has failed to pay any Charges by the due date for payment (including interest for late payments) and EnergyAustralia has provided at least ten Business Days' notice of that default to the Customer;

b. if the Customer has breached any other provision of this Contract and has not remedied that breach within any reasonable period notified by EnergyAustralia;
c. if the Customer fails to provide the security in accordance with clause 7;
d. if EnergyAustralia reasonably believes that the Customer no longer has a current Connection Contract;
e. to protect the Network and in the interests of other customers;
f. and/or, if applicable, a Regulated Buy-back Point of Connection, if the generation of that Regulated Buy-back Energy:

   i. endangers the health or safety of any person or physical property;
   ii. is or is likely to cause EnergyAustralia to be in breach of any laws of the relevant Jurisdiction; or
   iii. threatens the reliability of electricity supply across the Network;

g. in the circumstances of Force Majeure Event; or
h. pursuant to any right or obligation at law.

10.2 Disconnection and Termination

Disconnection of a Connection Point, for any reason, does not constitute termination of this Contract in respect of that Connection Point, nor will it prevent EnergyAustralia or the Customer from exercising any other rights it may have under this Contract.

10.3 Vacation of the Premises

a. The Customer must notify EnergyAustralia in writing about its intention to vacate the Premises. Such notification shall be provided to EnergyAustralia at least 30 days before Customer's proposed date of disconnection or vacation of the Premises.
b. The Customer must ensure that the Premises are safe and secure and provide unrestricted access to the Meter at each Connection Point during business hours.
c. The Customer is liable for all Charges up to the date of disconnection, or where applicable, the date that the new occupant enters into a new retail electricity agreement. The Early Termination Charges may also apply pursuant to clause 11.6.
d. EnergyAustralia shall apply best endeavours to finalise the disconnection within the required timeframe, however the Customer remains liable for the ongoing Charges until the disconnection occurs. However, the Customer will not be liable for ongoing Charges where the disconnection is delayed due to EnergyAustralia's fault, or negligent act or omission.
e. The Customer may authorise EnergyAustralia to release details of the Charges of this Contract to the new occupant of the Premises.

10.4 Charges

EnergyAustralia may charge the Customer for any cost it incurs in arranging disconnection of a Connection Point or, if applicable, a Regulated Buy-back Point of Connection (even if the relevant Premises are not actually disconnected from the relevant Network).

10.5 Reconnection

EnergyAustralia may arrange for reconnection of a Connection Point or, if applicable, a Regulated Buy-back Point of Connection, once it is satisfied that the grounds for disconnection no longer apply. The Customer must pay any costs incurred by EnergyAustralia in arranging reconnection.

10.6 Planned Interruptions

10.6.1. EnergyAustralia's Planned Interruptions

a. EnergyAustralia may arrange retailer planned interruptions to the supply of electricity to the Customer's Premises where permitted under the Energy Laws for the purpose of the installation, maintenance, repair or replacement of the Meter.
b. If the Customer's electricity supply will be affected by a retailer planned interruption arranged by EnergyAustralia, EnergyAustralia will give the Customer at least four Business Days' notice.

10.6.2. Information about Planned Interruptions

a. If the Customer requests EnergyAustralia to do so, EnergyAustralia will use best endeavours to explain a retailer planned interruption to the supply of electricity to the Premises which was arranged by EnergyAustralia.
b. If the Customer requests an explanation be in writing EnergyAustralia must, within ten Business Days of receiving the request, give the Customer either:

    i. the written explanation; or
    ii. an estimate of the time it will take to provide a more detailed explanation if a longer period is reasonably needed.

c. For interruptions made by the Customer's Network Operator, EnergyAustralia may refer the Customer to the Network Operator to provide information.

10.7 Regulated Buy-back Credits

This clause 10.7 applies if the Customer has any electricity generated by the Plant at a Premises that is eligible under the Regulated Buy-back Scheme.

10.7.1. Sale & Purchase of Regulated Buy-back Energy

a. The Customer will sell all Regulated Buy-back Energy to EnergyAustralia, in respect of each Regulated Buy-back Point of Connection, in consideration for EnergyAustralia providing the Regulated Buy-back Credits.
b. EnergyAustralia will credit the Customer Regulated Buy-back Credits.
c. Regulated Buy-back Credits for Regulated Buy-back Energy will be calculated as follows:

Regulated Buy-back Credits = Regulated Buy-back Rate x Regulated Buy-back Energy

d. The Customer is responsible for paying all other costs, charges, expenses, fees and other amounts that are or may become applicable to the generation, delivery and/or sale (or attempted sale) of Regulated Buy-back Energy at a Regulated Buy-back Point of Connection, including any charges payable (by either the Customer or EnergyAustralia) to the Network Operator or the Market Operator.

10.7.2. Customer's obligations

The Customer must ensure that the production of Regulated Buy-back Energy complies with:

a. the laws of the relevant Jurisdiction;
b. any technical or other standards published by the relevant Network Operator, including any service and installation rules; and
c. any reasonable requirements notified by EnergyAustralia from time to time in order to comply with its own obligations in respect of the Regulated Buy-back Point of Connection.

10.7.3. Regulated Buy-back Period

a. EnergyAustralia is only required to credit the Customer Regulated Buy-back Credits during the Regulated Buy-back Period.
b. Clause 10.7 will no longer apply if:

i. the Customer is or becomes required to register as a Generator under the Rules;
ii. EnergyAustralia is required to make, or the Customer receives, or successfully applies to receive (including from a third party), payment for energy exported from a Regulated Buy-back Point of Connection on a basis other than as set out in clause 10.7 (including under any energy buy-back scheme prescribed by the laws of the relevant Jurisdiction other than a Regulated Buy-back Scheme applicable as at the commencement of this Contract); or
iii. any of the laws of the relevant Jurisdiction are changed or introduced with the effect that the Customer does not hold any required authorisation, licence, permit or other form of consent or approval or exemption which entitles it to sell Regulated Buy-back Energy to EnergyAustralia at the Regulated Buy-back Point of Connection.

c. If the Regulated Buy-back Scheme no longer applies or the Customer's Plant at a Premises is no longer eligible under the Regulated Buy-back Scheme, then:

i. the Customer will no longer be eligible to receive Regulated Buy-back Credits; and
ii. EnergyAustralia can recover any previously issued Regulated Buy-back Credits for the period in which the Customer was not eligible to receive them.

10.7.4. Disconnection and Termination of Regulated Buy-back Points of Connection

Where there are multiple Regulated Buy-back Points of Connection, the provisions of clause 11 (Termination) apply to each of those Regulated Buy-back Points of Connection separately, and any termination or disconnection may occur in respect of one or more Regulated Buy-back Points of Connection under clause 11, without affecting any other Regulated Buy-back Point of Connection.

11. TERMINATION

11.1 Rights of Termination

This Contract can be terminated by:

a. notice from EnergyAustralia to the Customer if:

i. a Connection Point is disconnected or EnergyAustralia has grounds for disconnection of a Connection Point under clause 10.1;
ii. another electricity retailer becomes Financially Responsible for a Connection Point during the Term;
iii. the Customer becomes insolvent, deregistered or breaches any material provision of this Contract and has not remedied that breach within any reasonable period notified by EnergyAustralia;
iv. EnergyAustralia (acting reasonably) believes the Customer has provided EnergyAustralia with false or misleading information concerning a material aspect of this Contract, including information regarding the ownership or occupation of the Premises, the Customer's electricity consumption or the Customer's credit position;
v. the Customer fails credit assessment conducted by EnergyAustralia and/or does not provide security or parent company guarantee; or
vi. if the Customer elected to appoint a Metering Coordinator — the Customer does not ensure a Metering Coordinator is appointed for the Connection Point at all times;

b. notice from the Customer to EnergyAustralia if EnergyAustralia becomes insolvent or breaches any material provision of this Contract and has not remedied that breach within any reasonable period notified by the Customer.

All notices under this clause 11.1 shall be provided in accordance with clause 18.2.

11.2 Run Off Period

a. Notwithstanding the termination or expiry of this Contract, EnergyAustralia will continue to sell the Customer electricity consumed at the Connection Points, and, if applicable, apply any Regulated Buy-back Credits for the export of any Regulated Buy-back Energy during the Regulated Buy-back Period, on the terms of this Contract until another electricity retailer becomes Financially Responsible for the relevant Connection Points, or until the Customer establishes a new contract with EnergyAustralia (the **Run Off Period**). The Customer must pay EnergyAustralia any Charges and otherwise continue to comply with the terms of this Contract during any Run Off Period.

b. During any Run Off Period, Energy Charges and Environmental Charges will be calculated at a Default Rate.

11.3 Retailer of Last Resort Event

If a Last Resort Event occurs in respect of a Connection Point:

a. EnergyAustralia must provide the Customer's name, billing address and national metering identifier for the relevant Connection Point to the applicable Retailer of Last Resort within the timeframe required by the laws of the relevant Jurisdiction; and

b. this Contract will automatically terminate in respect of such Connection Point.

11.4 Preservation of Rights and Survival

a. On the expiry or termination of this Contract, each party will retain any rights it may have against the other for any past breach of the Contract or in respect of any amounts payable to it under this Contract.

b. Termination or expiry of this Contract for any reason will not affect or prejudice any right of either party against the other which accrued before termination or expiry, nor:

   i. clauses 11 (Termination), 6.4 (Invoice Disputes and Errors), 14 (Liability), 15 (Dispute Resolution), 16 (Use of Information) and 19 (Web Portal Access), each of which will survive termination or expiry;

   ii. the Customer’s payment obligations for Charges incurred during the Term and invoiced after termination or expiry; and

   iii. any other provision of this Contract which by its nature survives termination or expiry or is required to survive for the purposes of the parties’ performance of their respective obligations and/or exercise of the parties’ respective rights under surviving obligations.

11.5 Early Termination Charges

Unless the Customer and EnergyAustralia agree otherwise in writing, if this Contract is terminated pursuant to clause 11.1(a), the Customer shall pay to EnergyAustralia the Early Termination Charges.

11.6 Post Expiry Contract Offer

a. This clause will only apply if the Customer:

   i. has, at the Commencement Date, a Forecast Consumption of less than 1000MWh in any contract year; or

   ii. at any stage after the Commencement Date, in EnergyAustralia’s reasonable opinion, the Customer’s aggregate consumption of electricity at the Connection Points in any Contract Year will be less than 1000MWh.

b. EnergyAustralia may, by providing the Customer with notice at any time during the Term of the Contract, but no later than 30 days prior to the Expiry Date, propose a replacement retail electricity contract for

some or all of the Connection Points following the Expiry Date (an **Offer**). The Offer may be for a fixed term (**Standard Retail Contract**) or a contract that auto-renews (**Auto-Renewal Contract**)

c. If the Customer accepts the Offer (including under clause 11.6(h) the Charges under the new Contract will take effect following the Expiry Date of the existing Contract.

d. If the Customer's existing Contract is an Auto-Renewal Contract and the Offer is for:

   i. another Auto-Renewal Contract, the Customer will not be liable to pay EnergyAustralia Early Termination Charges in respect of the Auto-Renewal Contract if they elect to terminate it either before, or once the Auto-Renewal Contract has commenced; or

   ii. a Standard Retail Contract, once the Standard Retail Contract commences, EnergyAustralia Early Termination Charges will apply pursuant to clause 11.5.

e. If the Customer's existing Contract is a Standard Retail Contract and the Offer is for:

   i. another Standard Retail Contract, EnergyAustralia Early Termination Charges will apply pursuant to clause 11.6; or

   ii. an Auto-Renewal Contract, EnergyAustralia Early Termination Charges will apply if the customer elects to terminate the Contract during the Term before the date the Customer would roll onto the Auto-Renewal Contract, and will not apply once the Auto-Renewal Contract commences.

f. If the Customer has rolled onto an Auto-Renewal Contract in accordance with this clause 11.6, EnergyAustralia may continue to make Offers to the Customer for subsequent Auto-Renewal Contracts or Standard Retail Contracts to replace the previous Contract, by following the notice periods in clause 11.6(b).

g. An Offer must include the terms and conditions of the new Contract, the term of the new Contract, the Connection Points to which the new Contract will apply and the charges applicable to those Connection Points.

h. The Customer will be deemed to have accepted an Offer for an Auto-Renewal Contract made in accordance with this clause 11.6 if it has not rejected the Offer by written notice to EnergyAustralia within 14 days after receiving the Offer.

i. A new Contract will be deemed to commence on the Start Date set out in the Offer (which may not be earlier than the Expiry Date).

j. If the Customer:

   i. rejects the Offer; and

   ii. does not accept a new Contract with EnergyAustralia; and

   iii. does not transfer the Connection Points to another electricity retailer in accordance with the Transfer Requirements

the Customer will, after the Expiry Date, pay the Default Rate pursuant to clause 11.2.

12. MULTIPLE CONNECTION POINTS

12.1 Adding Connection Points

If the parties agree to add further Connection Points to this Contract, then the Customer must complete and sign the 'Add / Amend Premises' form, available at **Industrial & Commercial Electricity & Gas | EnergyAustralia**, and submit it to EnergyAustralia. On receipt of an appropriately completed form, the parties agree that the Schedule will be deemed to be amended with effect on and from that date to incorporate those new Connection Points and any other provisions applying to those Connection Points.

12.2 Removing Connection Points

If the parties agree to remove Connection Points from this Contract, or this Contract is terminated in respect of some Connection Points only, EnergyAustralia must amend the Schedule to remove those Connection Points and the Charges and other provisions applying only to those Connection Points.

12.3 Disconnection and Termination

Where this Contract applies to multiple Connection Points, clauses 10 (Disconnection and Reconnection) and 11 (Termination) apply to each of those Connection Points severally. One or more Connection Points may be disconnected under clause 10, and this Contract may be terminated in respect of one or more Connection Points under clause 11, without affecting the continued application of this Contract to any other Connection Points.

13. FORCE MAJEURE

a. If a Force Majeure Event occurs and prevents a party (the Affected Party) from performing any of its obligations under this Contract, the Affected Party must notify the other party as soon as possible of the nature of the Force Majeure Event, the time of its commencement and likely duration and the extent to which the Affected Party is prevented from performing its obligations.

b. An Affected Party's obligations under this Contract are suspended to the extent that the Affected Party is prevented from performing them by a Force Majeure Event. However, a Force Majeure Event will not suspend any obligation of an Affected Party to make a payment to the other party.

c. An Affected Party must endeavour to overcome the effects of a Force Majeure Event, but nothing in this clause will require the Affected Party to settle any industrial dispute.

d. Performance of an Affected Party's obligations must recommence once the relevant Force Majeure Event has been rectified or ceases to exist.

14. LIABILITY

a. EnergyAustralia has no Liability for any Loss or damage the Customer suffers arising as a consequence of, or in connection with:

   i. the control or use of electricity at the Premises;
   ii. the disconnection of any Premises;
   iii. any fluctuation or distortion (in voltage magnitude, voltage waveform or frequency) or interruption in Network Services or Regulated Buy-back Energy;
   iv. Network Services, Connection Services or the acts or omissions of a Network Operator or any third party;
   v. Metering Services or the acts or omissions of a Metering Coordinator (unless the Metering Coordinator is EnergyAustralia);
   vi. the operation of the Customer's Generator or Plant (if applicable);
   vii. any failure by EnergyAustralia or the Network to take delivery of any Regulated Buy-back Energy (if applicable); or
   viii. a Regulated Buy-back Point of Connection being disconnected, or the supply of Regulated Buy-back Energy through a Buy-back Point of Connection being interrupted, by act or omission of any person other than EnergyAustralia,

   unless and to the extent that the Customer's Loss or damage is directly caused by a breach of this Contract by EnergyAustralia, or by the wilful or negligent act or omission of EnergyAustralia.

b. Neither the Customer nor EnergyAustralia have any Liability to the other for any Indirect Loss.

c. To the extent that the Customer, or EnergyAustralia, has any Liability to the other party, Liability is limited, for all claims the other party makes in any one calendar year in aggregate (**Liability Cap**), to:

i. where EnergyAustralia claims the Customer is liable – the total value of Charges paid by the Customer under this Contract in the 12-month period immediately before the date of the claim, plus any other Network Charges, Environmental Charges, or other Charges, which EnergyAustralia has incurred in respect of the Customer's Premises during this 12-month period; or
ii. where the Customer claims EnergyAustralia is liable – the total value of Charges paid by the Customer under this Contract in the 12 months before the date of the claim.

d. Clause 14(c) does not limit the Liability of either party to the extent it arises from:

i. the death, illness or injury of any person; or
ii. Loss of or damage to any real or personal property, including loss of use; or
iii. under law and is a Liability the parties cannot limit or contract out of; or
iv. any breach of clause 16 (Use of Information); or
v. in cases of fraud, wilful misconduct or illegal or unlawful acts,

and no such Liability will be counted in assessing whether the total Liability Cap in clause 14(c) has been met.

e. Each party has a duty to mitigate Liability that would otherwise be recoverable from the other party pursuant to this Contract by taking appropriate and commercially reasonable steps to reduce or limit the amount of such Liability. The Liability of a party in contract, tort (including negligence), under statute, under an indemnity or otherwise will be reduced by the extent, if any, to which the other party contributed to the Liability.

f. If any condition or warranty is implied into this Contract under the *Competition and Consumer Act 2010 (Cth)*, or other consumer laws and EnergyAustralia is able to limit the Customer's remedy for a breach of such condition or warranty, then EnergyAustralia's Liability is limited to one or more of the following at EnergyAustralia's option:

i. in the case of goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of having the goods repaired; or
ii. in the case of services, the supply of the services again, or the payment of the cost of having the services supplied again.

g. Nothing in this Contract is to be taken to exclude, restrict or modify any condition or warranty that EnergyAustralia is prohibited by law from excluding, restricting or modifying. All other conditions and warranties, whether or not implied by law, are excluded.

15. DISPUTE RESOLUTION

15.1 Notice of Dispute

a. A party claiming that a dispute has arisen must serve written notice of the dispute to the other party's representative. The written notice must specify that it is a notice given under this Contract and give full particulars of the nature and extent of the dispute

b. If a dispute cannot be settled by negotiation within 20 Business Days after commencing negotiation, then either party must give written notice to the senior management of the other party declaring that a dispute exists. The notice must set out the details of the dispute and the steps taken to resolve the dispute.

c. The senior management, or their nominees, must meet within ten Business Days of the dispute being declared and use reasonable endeavours to resolve the dispute.

d. Neither party may commence legal proceedings concerning a matter in dispute (other than for the purpose of seeking urgent injunction or declaratory relief) unless the parties have attempted to resolve the dispute in accordance with clauses 15.1(a), (b) and (c).

15.2 Continuing Obligations

Notwithstanding the existence of a dispute, each party must continue to perform its obligations under this Contract.

15.3 Costs

The parties must bear their own costs in relation to any disputes under this Contract.

16. USE OF INFORMATION

16.1 Confidentiality

A party must not disclose any Confidential Information of the other party to any third party until three years following the expiry or termination of this Contract.

16.2 Permitted Disclosures

a. Nothing in this clause will prevent a party from disclosing Confidential Information in circumstances where disclosure is:

   i. required by law or under the Rules;
   ii. required for the party to carry out its obligations or exercise its rights under this Contract;
   iii. to the party's officers, employees, agents, contractors and related bodies corporate (limited to the extent those persons are required to have access to such Confidential Information);
   iv. to potential buyers of the party's business or potential assignees of this Contract;
   v. required by a recognised stock exchange of which the party is a member;
   vi. to the party's legal or other professional advisers (including, in the case of the Customer, a broker appointed to procure an electricity supply on behalf of the Customer);
   vii. to the new occupant of the Premises if authorised by the parties; or
   viii. with the prior written consent of the other party.

b. Each party will be responsible for the actions of its officers, employees, agents, contractors and advisers and must ensure that those persons comply with the party's obligations under this clause.

c. Each party must immediately notify the other of any actual or potential breach of confidentiality, disclosure or unauthorised use of the Confidential Information, and take all reasonable steps to prevent or stop such breach.

d. The Customer consents to EnergyAustralia using the Customer's name and/or logo in any public statements or marketing activities in relation to the supply of electricity.

16.3 Personal Information

a. EnergyAustralia will comply with all relevant privacy legislation and will collect and disclose personal information (as defined in the *Privacy Act 1988 (Cth)*) about the Customer in accordance with its Privacy Policy, available at **energyaustralia.com.au/privacy** (as amended from time to time), and in accordance with the Privacy Statement attached at Appendix A.

b. EnergyAustralia may also disclose personal information about the Customer where disclosure is:

   i. required to verify the creditworthiness of the Customer or for the purposes of recovering any amounts owed by the Customer under this Contract; and

ii. required for EnergyAustralia to carry out its obligations or exercise its rights under this Contract.

c. The Customer agrees that by entering into this Contract, it authorises its Distributor to release to EnergyAustralia the Customer's previous energy usage data for the Premises.

16.4 Consent for marketing material

By entering into this Contract, the Customer agrees to receive marketing material from EnergyAustralia, or related companies or companies that EnergyAustralia has partnered with. The Customer has the right to opt out of receiving marketing by contacting EnergyAustralia.

16.5 ResponsePro

If the Customer has Opted-in to ResponsePro as indicated in the Schedule then the terms and conditions in Appendix B apply to the Customer.

17. CONSUMPTION AND DEMAND LEVELS

17.1 Application

This clause will apply only if the Customer:

a. has, at the Commencement Date, a Forecast Consumption of more than 5GWh in any contract year; or
b. at any stage after the Commencement Date, in EnergyAustralia's reasonable opinion, the Customer's aggregate consumption of electricity at the Connection Points in any Contract Year will be more than 5GWh.

17.2 Forecast Consumption

a. EnergyAustralia has calculated:

   i. the Energy Charges; and
   ii. the Fixed Certificate Prices

   on the basis of the Forecast Consumption for each Jurisdiction.

b. Unless expressly agreed by the parties, the Forecast Consumption does not vary as a result of the addition or removal of Connection Points under clause 12.
c. The Customer must notify EnergyAustralia as soon as possible after it becomes aware that its aggregate electricity consumption at the Connection Points in a Jurisdiction may, in any Contract Year, be less than the relevant Minimum Consumption or be greater than the relevant Maximum Consumption.

17.3 Minimum Consumption

a. If the Customer's aggregate electricity consumption at the Connection Points in a Jurisdiction in any Contract Year is less than the relevant Minimum Consumption, then in addition to paying the Charges for that electricity consumption, the Customer must also pay EnergyAustralia any Shortfall Charges EnergyAustralia may impose.
b. EnergyAustralia will use reasonable endeavours to reduce any relevant Minimum Consumption to accommodate a reduction in the Customer's electricity consumption caused by a Force Majeure Event.
c. If the Shortfall Charges are a negative amount, the Shortfall Charges will be deemed to be zero.
d. The Shortfall Charges shall be calculated as specified under clause 20.

17.4 Maximum Consumption

If the Customer's aggregate electricity consumption at the Connection Points in a Jurisdiction in any Contract Year is greater than the relevant Maximum Consumption, then in addition to paying the charges for that

electricity consumption, the Customer must also pay EnergyAustralia any Excess Charges EnergyAustralia may impose. The Excess Charges shall be calculated in accordance with the formula provided under clause 20. If the Excess Charges are a negative amount, the Excess Charges will be deemed to be zero.

17.5 Minimum Consumption impact on Environmental Charges

a. If the Customer's aggregate electricity consumption in an Obligation Year at the Connection Points in the Jurisdiction(s) to which an Environmental Scheme applies is less than the relevant Environmental Minimum Consumption in that/those Jurisdictions, then in addition to paying the Environmental Charges that correspond to that electricity consumption for that Environmental Scheme, the Customer must also pay EnergyAustralia any Environmental Shortfall Charges that EnergyAustralia may impose for that Environmental Scheme.
b. If the Environmental Shortfall Charges are a negative amount, the Environmental Shortfall Charges will be deemed to be zero.

17.6 Maximum Consumption impact on Environmental Charges

a. If the Customer's aggregate electricity consumption in an Obligation Year at the Connection Points in the Jurisdiction(s) to which an Environmental Scheme applies is more than the relevant Environmental Maximum Consumption in that/those Jurisdiction(s), then in addition to paying the Environmental Charges that correspond to that electricity consumption for that Environmental Scheme, the Customer must also pay EnergyAustralia any Environmental Excess Charges that EnergyAustralia may impose for that Environmental Scheme.
b. If the Environmental Excess Charges are a negative amount, the Environmental Excess Charges will be deemed to be zero.

17.7 Payments

EnergyAustralia will use reasonable endeavours to calculate the amount (if any) owed by the Customer under this clause 17:

a. in respect of electricity consumption, at the end of each Contract Year; and
b. in respect of Environmental Schemes, at the end of each Obligation Year,

and at the termination of this Contract and include such amount on the Customer's next or final invoice.

18. OTHER MATTERS

18.1 Connection Arrangements

The Customer must obtain the prior approval of EnergyAustralia to:

a. on-sell any electricity supplied to a Connection Point;
b. make a further connection between a Premises and a Network; or
c. generate electricity at a Connection Point so that the Customer's electricity consumption profile at that Connection Point is materially changed.

18.2 Notices

a. Notices under this Contract must be in writing and given by hand or sent by email or by mail to the email addresses or addresses of EnergyAustralia and the Customer specified in the Schedule or in any other manner agreed by the parties.
b. A notice sent in accordance with this clause will be deemed received by the recipient:

    i. in the case of delivery by hand, on the date of delivery;

ii. in the case of email, the date when the sender receives an automated message confirming delivery or four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered; and
iii. in the case of a notice sent by letter, on the date three Business Days after the date of posting.

c. Any change in the address or any notice details of a party specified in the Schedule must be advised in writing to the other party (and the Schedule will be deemed amended accordingly).
d. The Customer must immediately notify EnergyAustralia in writing if there is a change to the Customer's life support requirements detailed in Part 1 of the Schedule.

18.3 Transfer of Rights and Obligations

a. The Customer must only transfer its rights and obligations under this Contract with EnergyAustralia's prior written consent. EnergyAustralia may require that reasonable conditions be met before providing its consent.
b. The Customer hereby grants its unconditional consent to the transfer by EnergyAustralia of any or all of its rights or obligations under this Contract to a party holding all authorisations required to become Financially Responsible for the relevant Connection Points and meet EnergyAustralia's other obligations under this Contract.

18.4 Relevant Law

a. The laws of Victoria govern this Contract and each party submits to the jurisdiction of the courts of Victoria.
b. The parties acknowledge that the laws of a Jurisdiction may impose certain requirements on the form or content of contracts with electricity consumers within the Jurisdiction. To the extent that this Contract is inconsistent with such laws, the terms of this Contract will be deemed amended for any Connection Points to which those laws apply, to the extent necessary to comply with those laws.
c. If the laws of Jurisdiction impose additional Charges or implement any change to the Charges specified in the Schedule, EnergyAustralia will notify the Customer of such changes in Jurisdiction and invoices will be adjusted accordingly.

18.5 Interpretation and General

a. In this Contract, a reference to:

i. any law will be read as a reference to that law as amended, consolidated, supplemented or replaced and any regulation, rule, ordinance, proclamation, by-law or judgment made under that law;
ii. a document includes any variation or replacement of it;
iii. a person, includes an individual, firm, body corporate, an unincorporated association or an authority; and
iv. the words "include", "includes" and "including" means "including without limitation".

b. If a provision of this Contract is invalid or unenforceable in a Jurisdiction:

i. it is to be read down or severed in that Jurisdiction to the extent of the invalidity or unenforceability; and
ii. it does not affect the validity or enforceability of that provision in any other Jurisdiction or of the remaining provisions.

c. A waiver by a party of a provision or a right under this Contract is binding on that party only if it is given in writing. A failure by a party to exercise a right, or a delay in exercising a right, does not operate as a waiver of that right or otherwise prevent the party exercising that right.

d. This Contract may be executed in counterparts. All counterparts together will be taken to constitute one instrument.
e. The parties expressly consent and agree that this Contract may be executed by electronic signature (regardless of the form of electronic signature utilised). The parties agree that any such electric signature will be treated, for the purposes of validity, enforceability as well as admissibility, the same as hand-written signatures.
f. Without limiting the parties' rights under the Australian Consumer Law, this Contract, together with the Schedule and any documents referred to in this Contract, is the entire agreement of the parties about the subject matter of this Contract and supersedes any prior representations, negotiations, arrangements, understandings or agreements and all other communications.
g. Any words used in this Contract and not otherwise defined will bear the meaning (if any) set out in the Energy Laws and/ or the Rules.
h. The parties agree to comply with any Special Conditions listed in Part 4 of the Schedule.
i. In the event of any ambiguity, discrepancy or inconsistency in, or between, the documents comprising this Contract, the following order of precedence applies (with the document higher in the order taking precedence to the extent of any inconsistency):

    i. Part 4 (Special Conditions) of the Schedule;
    ii. Parts 1 (Contract Details) and 2 (Rates and Charges) of the Schedule;
    iii. clauses 1 to 20 of the Terms and Conditions; and
    iv. any other part of the Contract.

j. The documents comprising this Contract are to be regarded as mutually explanatory and anything contained in one but not the others will be equally binding as if contained in all of them.
k. Each party will comply with all laws, rules and regulations applicable to that party in connection with this Contract, including, but not limited to, anti-bribery and corruption, labour, human rights, and environmental laws.

18.6 Amending this Contract

a. EnergyAustralia may amend this Contract to:

    i. reflect any Change in Law that takes place after this Contract commences; or
    ii. make variations to this Contract that are reasonably necessary to protect EnergyAustralia's legitimate business interests, which include achieving optimal business efficiency and performance.

b. If EnergyAustralia amends this Contract, EnergyAustralia will give the Customer reasonable notice of the changes in accordance with clause 18.2 of this Contract and any applicable Energy Law requirements. Where permitted, EnergyAustralia may give the Customer notice by way of a message on or with the Customer's bill. The notice may identify the amendments or refer to EnergyAustralia's website where the amendments are described.
c. After EnergyAustralia gives the Customer notice of amended terms, the amended terms will form part of this Contract.
d. The Customer consents to EnergyAustralia amending this Contract by notice and agrees to comply with this Contract as amended by that notice.

19. WEB PORTAL ACCESS

a. The Customer has access to EnergyAustralia's online energy management portal (the Web Portal), which provides access to the Customer's electricity invoices, Meter data and site statements, via a username and password.

b. The Customer is solely responsible for the confidentiality and use of the Customer's login details and associated password, as well as for any communications entered into through the Web Portal using those login details. Unauthorised use and allocation of the Customer's login details may lead to termination or suspension of the Customer's access to the Web Portal.

c. If the Customer suspects someone else has used the Customer's login details, or there has been any unauthorised use of the Customer's Web Portal access, the Customer should let EnergyAustralia know as soon as possible.

d. The Customer acknowledges that EnergyAustralia owns the data used to create the invoices, Meter data and site statements. The Customer must only use and reproduce the invoices, Meter data and site statements accessed via the Web Portal in accordance with this Contract. Further, the Customer must not:

   i. use the Web Portal in any way that could damage the reputation of EnergyAustralia;
   ii. reproduce, make error corrections to or otherwise modify or adapt the Web Portal;
   iii. except to the extent permitted by law, decompile, disassemble or otherwise reverse engineer the Web Portal, or permit any third party to do so; or
   iv. modify or remove any copyright or proprietary notices on the services.

e. The invoices, Meter data and site statements accessed by the Customer via the Web Portal contain Confidential Information. The Customer must keep its Web Portal username and password safe and not allow it to be shared with or used by a third party unless that third party is acting as an agent of, a broker or service provider to the Customer. Only the Customer may change its Web Portal password.

f. The Customer must notify EnergyAustralia in writing:

   i. when a third party acting as an agent, a broker or service provider to the Customer is required to have access to the Web Portal at any time during the term of this Contract; and
   ii. when Web Portal access to a third party acting as an agent, a broker or service provider to the Customer shall be ceased at any time during the term of this Contract.

g. Subject to the Customer's rights under the *Competition and Consumer Act 2010 (Cth)*, or other consumer laws, EnergyAustralia does not warrant that

   i. the Web Portal is complete, accurate, current, secure or free from errors or omissions, programming bugs or viruses; or
   ii. availability of the Web Portal will be continuous or uninterrupted, that any defects will be corrected, or that the services or the supporting infrastructure or server that makes it available are free of viruses.

h. The Customer must notify EnergyAustralia of any loss of, or fault in, access to the Web Portal.

i. Under this clause EnergyAustralia accepts Liability to the Customer for loss or damage suffered by the Customer in connection with the Customer's use of the Web Portal, which was caused by EnergyAustralia's breach of contract or negligence under the principles applied by the courts. However, EnergyAustralia is not liable to the Customer for:

   i. the Customer's use, or inability to use the Web Portal;
   ii. any data or information the Customer enters into the Web Portal;
   iii. Loss that was not reasonably foreseeable;
   iv. Loss that was not caused by EnergyAustralia's breach of the *Competition and Consumer Act 2010 (Cth)*, or other consumer laws, or contract or by EnergyAustralia's negligence;
   v. Loss that was caused by the Customer's breach of contract or the Customer's negligence;

vi. Loss caused by events outside EnergyAustralia's reasonable control (such as a malfunction in equipment or software, internet access difficulties or delay or failure of transmission or the interception or hacking of the Customer's data by unauthorised third parties); or
vii. loss of chance, goodwill or reputational damage, or loss of use,

in connection with the Customer's use of the Web Portal.

j. EnergyAustralia may terminate the Customer's access to the Web Portal if the Customer does not comply with any provisions under this clause. The Customer may terminate their access to the Web Portal at any time.
k. In this clause, the definition of Customer includes employees, contractors of the Customer, and any third party authorised by the Customer.

20. DEFINITIONS

Any word capitalised will have the meaning set out below:

Actual Load Shape – the percentage of electricity that the Customer actually consumed during Peak Time Periods over a Contract Year in a Jurisdiction.

Additional Load Costs – EnergyAustralia's costs of supplying electricity to meet the Customer's Actual Load Shape:

a. taking into account EnergyAustralia's reasonable wholesale costs (in the wholesale electricity derivative contracts market and the NEM spot market) of purchasing sufficient wholesale electricity to supply that Actual Load Shape; and
b. allowing EnergyAustralia to achieve a reasonable retail margin on those wholesale costs.

Without limiting the foregoing, a margin on its wholesale costs similar to that forecast by EnergyAustralia for this Contract, as at the date of signing this Contract, will be taken to be a reasonable margin.

AER – means the *Australian Energy Regulator*.

Aggregated Customer – means a customer whose aggregate energy usage across all Premises (except those in Victoria) exceed the Small Customer Thresholds.

Annexure – a document including the word "Annexure" in its title that is attached to these Terms and Conditions.

Approved Rating – a rating of BBB or greater by Standard and Poor's or an equivalent rating by a rating agency of similar status.

Business Day – a day that is not a Saturday, Sunday or a public holiday in Melbourne, Victoria.

Carbon Scheme – any statutory fixed or cap and trade emissions trading scheme (or, to the extent that a carbon tax constitutes a Carbon Scheme, the carbon tax) for the management of greenhouse gas emissions or concentrations.

Carbon Scheme Charge – any charges incurred or charged by EnergyAustralia in complying with a Carbon Scheme, and provide for the full recovery of EnergyAustralia's costs in connection with its obligations under a Carbon Scheme.

Change in Law –

a. any law, regulation, rule, code or sub-code (including the *National Electricity Law*, the Energy Laws and the Rules) being introduced, amended or repealed in whole or in part after the Commencement Date;

b. any new or increased tax, fee or charge (including any carbon tax) imposed on EnergyAustralia after the Commencement Date in relation to the purchase of electricity by EnergyAustralia for sale to the Customer or the purchase by the Customer of electricity and/or any other goods or services from EnergyAustralia;

c. any new or increased tax, fee or charge (including any carbon tax), fee or charge imposed on any other person after the Commencement Date and having the effect of increasing the cost of electricity and/or any other goods or services purchased by EnergyAustralia for sale to the Customer, or the amounts payable by EnergyAustralia under any hedge contract;

d. the imposition of any tax or change in the rate or way any tax is calculated which results in EnergyAustralia being required to pay an amount that it would not otherwise be required to pay, or a change in the amount that EnergyAustralia is required to pay under the law that applied at the date of this Contract;

e. any law, or mandatory or voluntary scheme being introduced, amended or repealed in whole or in part after the Commencement Date which relates to the emission of carbon, carbon compounds, greenhouse gases or greenhouse precursor gases into the atmosphere or is for the purpose of encouraging the generation of electricity from 'renewable' or 'green' energy sources or deterring the generation of electricity from 'non-renewable' or 'non-green' energy sources; or

f. any law, regulation, rule, code or sub-code (including the *National Electricity Law*, the Energy Laws and the Rules), or mandatory or voluntary scheme being introduced, amended or repealed in whole or in part after the Commencement Date which relates to the security or reliability of the *National Grid* or any part of it, including without limitation, the imposition of an energy guarantee, reliability obligation, emissions obligation, or similar scheme requiring EnergyAustralia or its related bodies corporate to:

    i. comply with a reliability guarantee or obligation, including any obligation to meet any of its load requirements or forecast or actual electricity demand by entering into contracts or other arrangements relating to dispatchable energy generation, storage, demand reduction, demand management or other energy related services or resources to support the reliability of the National Grid; and/or

    ii. comply with an emissions guarantee or obligation, including an obligation to meet any of its load requirements or forecast or actual electricity demand with energy (or energy related services) purchases or contracts achieving a specified or determined average emissions level.

Charges – all Connection Services Charges, Early Termination Charges, Energy Charges, Environmental Charges, Market Charges, Metering Charges, Network Charges, the Supply Charge, Carbon Scheme Charge, and other amounts set out in the Schedule or payable by the Customer under this Contract, including any applicable Annexures.

Commencement Date – the date EnergyAustralia receives an executed Schedule from the Customer.

Company Tax Rate – means the rate of tax payable by companies as specified in the *Income Tax Rates Act 1986 (Cth)* (as amended or replaced from time to time).

Confidential Information – the Energy Charges, Environmental Charges, information about the terms or effect of this Contract and any other information exchanged between the parties that is expressly identified as confidential, but does not include any information within the public domain (other than as a result of a breach of clause 16).

Connection Contract – a connection contract or supply and connection contract between the Customer and a Network Operator in relation to the connection of any Premises to a Network and/or the delivery, supply or conveyance of electricity across the Network.

Connection Point – the point at which a Premises is connected to a Network.

Connection Services – connection of any Premises to a Network, any increase in the capacity of a connection, maintenance of capacity and other related services.

Connection Services Charges – any charges incurred or charged by EnergyAustralia in arranging Connection Services.

Contract – the terms and conditions of this retail electricity contract together with the Schedule and the attached Annexures (if any).

Contract Year – a continuous period of 12 months commencing on the Start Date or the anniversary of the Start Date (as applicable). If the period between the start of a Contract Year and the termination or expiry of this Contract is less than 12 months, that period will be deemed a Contract Year and any Forecast Consumption for that Contract Year pro-rated accordingly.

Customer – the person whose details are set out in the Schedule as a party to this Contract.

Default Rate – in the case of:

a. Energy Charges for a Connection Point, means the rate or rates set by EnergyAustralia published on EnergyAustralia's website **energyaustralia.com.au** and amended from time to time, being the rate EnergyAustralia reasonably determines is necessary to recover its costs of acquiring electricity in the NEM, plus a reasonable margin; and

b. Environmental Charges for a Connection Point, means the rate or rates set by EnergyAustralia (and amended) from time to time, being the rate EnergyAustralia reasonably determines is necessary to recover its Environmental Costs associated with the electricity supplied to the Connection Point, plus EnergyAustralia's reasonable administrative costs; and

c. credits for any energy exported from the Plant into the Network at a Connection Point, means the rate or rates set by EnergyAustralia, published on EnergyAustralia's website **energyaustralia.com.au** and amended from time to time, being the rate EnergyAustralia reasonably determines is necessary to recover its costs of receiving the Customer's exported energy, plus EnergyAustralia's reasonable administrative costs.

Demand Response Service Provider – has the meaning set out in the Rules.

Dispatch Instruction – has the meaning set out in the Rules.

Distributor – has the meaning set out in the Rules.

Early Termination Charges - means EnergyAustralia's costs and Charges suffered or incurred as a direct result of the termination of this Contract prior to the Expiry Date, which, for the avoidance of doubt, may include any market adjustments to the Customer's Charges as at the date of termination, and a reasonable administration fee as determined by EnergyAustralia (if any) associated with termination of this Contract prior to the Expiry Date.

EnergyAustralia – EnergyAustralia Pty Ltd (ABN 99 086 014 968) of Level 19, Two Melbourne Quarter, 697 Collins Street, Docklands, Victoria 3008.

Energy Charges – charges for the consumption of electricity by the Customer at a Connection Point at the energy charge rates as set out in the Schedule.

Energy Laws – laws which regulate the sale and supply of energy in the Customer's jurisdiction, including, where relevant, the *National Energy Retail Law Act 2011 (SA)*, *National Energy Retail Rules, Energy Retail Code of Practice (Victoria)*, and laws which apply or amend those laws and rules in other jurisdictions.

Environmental Charges – charges that provide for the full recovery of EnergyAustralia's Environmental Costs (which may include EnergyAustralia's reasonable forecast of any component of those Environmental Costs) for the supply of electricity to the Customer at the Connection Points, charged at the environmental charge rates set out in the Schedule.

Environmental Costs – any costs or charges incurred, or likely to be incurred, by EnergyAustralia:

a. in complying with its Environmental Obligations, including the costs of creating or acquiring Environmental Credits;
b. in failing to surrender the required number of Environmental Credits for any period for any reason, including the Tax Adjusted Legislative Charge; or
c. in mitigating or reducing EnergyAustralia's Environmental Obligations or the costs associated with EnergyAustralia's Environmental Obligations.

Environmental Credits – any permits, permissions, allowances or instruments recognised under international, national or state legislation and able to be surrendered by EnergyAustralia to meet its Environmental Obligations.

Environmental Excess Charges – the amount calculated for each Jurisdiction for each Obligation Year in accordance with the following formula:

$EC_{ENV} = (AC - EAEC_{MAX}) \times (MCP - FCP) \times DLF$

where:

EC_{ENV}	Environmental Excess Charges;
AC	actual aggregate electricity consumption under the Contract for the relevant Obligation Year (in MWh);
$EAEC_{MAX}$	Environmental Maximum Consumption (in MWh) for the relevant Obligation Year;
MCP	the volume weighted average of the prices at which EnergyAustralia was able to purchase certificates for the relevant Environmental Scheme for the quantity equal to (AC – $EAEL_{MAX}$) for that Obligation Year;
FCP	the Fixed Certificate Price; and
DLF	the volume weighted average Loss Factor for the distribution system for the Jurisdiction in which the Connection Point is located for the relevant Obligation Year.

Environmental Forecast Consumption –

a. in relation to each Obligation Year that is a calendar year, is the same as the Forecast Consumption; and
b. in relation to each Obligation Year that is shorter than a calendar year, is a load that is proportional in duration of the shortened Obligation Year to that calendar year.

Environmental Maximum Consumption – the amount determined by taking the Environmental Forecast Consumption of an Obligation Year for each Jurisdiction to which the relevant Environmental Scheme applies and then varying it by adding the Environmental Forecast Consumption multiplied by the Environmental Maximum Percentage for that Obligation Year.

Environmental Maximum Percentage – the percentage set out in the Schedule.

Environmental Minimum Consumption – the amount determined by taking the Environmental Forecast Consumption of an Obligation Year for each Jurisdiction to which the relevant Environmental Scheme applies and then varying it by subtracting the Environmental Forecast Consumption multiplied by the Environmental Minimum Percentage for that Obligation Year.

Environmental Minimum Percentage – the percentage set out in the Schedule.

Environmental Obligations – any obligations imposed on or commitments made by EnergyAustralia for the direct or indirect purposes of:

a. reducing levels of greenhouse gas emissions or any other environmental benefit;
b. increasing the uptake of renewable electricity;
c. reducing electricity consumption; or
d. encouraging efficiency of electricity usage by consumers.

Environmental Scheme – each of the NSW Energy Savings Scheme (ESS), NSW Peak Demand Response Scheme (PDRS), the Victorian Energy Efficiency Target (VEET), the Australian Government Large-scale Renewable Energy Target (LRET), the Australian Government Small-scale Renewable Energy Scheme (SRES), the Australian Capital Territory Energy Efficiency Improvement Scheme (EEIS) and the South Australian Retailer Energy Productivity Scheme (REPS), to the extent that the scheme applies in a Jurisdiction in which a Connection Point is situated.

Environmental Shortfall Charges – the amount calculated for each Jurisdiction for each Obligation Year in accordance with the following formula:

$SC_{ENV} = (AC - EAEC_{MIN}) \times (MCP - FCP) \times DLF$

where:

SC_{ENV}	Environmental Shortfall Charges;
AC	actual aggregate electricity consumption under the Contract for the relevant Obligation Year (in MWh);
$EAEC_{MIN}$	Environmental Minimum Consumption (in MWh) for the relevant Obligation Year;
MCP	the volume weighted average of the prices at which EnergyAustralia was able to sell certificates for the relevant Environmental Scheme for the quantity equal to ($AC - EAEL_{MIN}$) for that Obligation Year;
FCP	the Fixed Certificate Price; and
DLF	the volume weighted average Loss Factor for the distribution system for the Jurisdiction in which the Connection Point is located for the relevant Obligation Year.

Excess Charges – the amount calculated for each Jurisdiction in accordance with the following formula:

$EC = (AC - AEC_{MAX}) \times (PP - CP) \times LF$

where:

EC	Excess Charges
AC	actual aggregate electricity consumption under the Contract for the relevant Contract Year (in MWh)
AEC_{MAX}	Maximum Consumption (in MWh) for the relevant Contract Year
PP	the volume weighted average regional reference price of electricity for the Jurisdiction in which the Connection Point is located for the relevant Contract Year

CP the volume weighted average Energy Charge per MW of electricity for the relevant Contract Year; and

LF the volume weighted average Loss Factor for the Jurisdiction in which the Connection Point is located for the relevant Contract Year.

Expiry Date – the date specified as such in the Schedule.

Financially Responsible – where an electricity retailer is recognised by the Market Operator as the party responsible for the wholesale purchase of electricity consumed at a Connection Point.

Fixed Certificate Price – means the certificate price for the relevant Environmental Scheme for the relevant Obligation Year, as set out in the Schedule.

Force Majeure Event – means an event beyond the reasonable control of the affected party and not reasonably capable of being prevented by the affected party.

Forecast Consumption – the forecast consumption (if any) for the Connection Points in a Jurisdiction set out in the Schedule for each Contract Year.

Forecast Load Shape – the percentage of electricity that the Customer has forecast to consume at Peak Time Periods over a Contract Year in a Jurisdiction, as shown in the Schedule.

Forecast Reliability Gap Period – has the meaning given in the Initial Laws, as implemented in the RRO Laws that apply in the locations of the Premises (as applicable).

Generator – has the same meaning as set out in the Rules.

GST – has the meaning set out in the *GST Act*.

GST Act – the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

Indirect Loss – means any Loss which is not directly attributable to or arising as a direct consequence of a breach of this Contract. Indirect Losses include, but are not limited to: corruption of data, data losses, business interruption and losses of profit, revenue, reputation or goodwill.

Jurisdiction – in relation to a Connection Point, the State or Territory of Australia in which that Connection Point is situated.

Last Resort Event – an event affecting EnergyAustralia that triggers the operation of the relevant Jurisdiction's retailer of last resort arrangements with respect to EnergyAustralia’s sale of electricity to the Customer at a Connection Point

Liability – a liability under contract, tort (including negligence) or any other basis, including where caused by that party's negligent or wilful act or omission

Loss means any damage, loss, cost, Liability or expense (including legal costs and expenses) however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Loss Factor – the combined transmission and/or distribution loss factors applicable to a Connection Point

Market Charges – any NEM participant fees, ancillary services fees or other NEM charges or levies incurred by EnergyAustralia in selling electricity at a Connection Point

Market Operation Rules – any rules or other requirements in a Jurisdiction relating to the sale of electricity, including where relevant, the terms of any use of system, coordination or other agreement entered into by EnergyAustralia with a Network Operator

Market Operator – the party responsible for the operation of the NEM in accordance with the Rules

Market Participant – has the meaning given in the Rules.

Market Retail Contract – EnergyAustralia's "Market retail contract terms and conditions" published on EnergyAustralia's website **energyaustralia.com.au** as amended from time to time.

Maximum Consumption – the amount determined by taking the Forecast Consumption for a Jurisdiction and then varying it by adding the Forecast Consumption multiplied by the Maximum Percentage

Maximum Percentage – the percentage set out in the Schedule

Meter – a device complying with the Metering Rules for measuring and recording consumption of electricity and any current transformer as defined in the Rules, voltage transformer as defined in the Rules, kVA demand meter, communications device or other associated equipment.

Meter Installation Timeframes – are as set out in the *Rules*.

Metering Charges – the Meter provision, Meter reading, Metering Data Provider and other Meter-related charges incurred or charged by EnergyAustralia in arranging Metering Services for a Connection Point or facilitating the Customer's Metering Coordinator, including any special meter reads.

Metering Coordinator – a metering coordinator accredited pursuant to the Rules.

Metering Data Provider – a metering data provider accredited pursuant to the Rules.

Metering Provider – the provider of Metering Services to that Connection Point under the Rules.

Metering Rules – any applicable legislation, regulation or other applicable requirement as to the Meter and Metering Services required at a Connection Point.

Metering Services – the Meters and other related services provided in respect of a Connection Point, including installing, maintaining, calibrating, testing and reading of Meters, calculation of the electricity consumption at a Connection Point for Type 7 metering installations, verifying and forwarding data and any Metering Provider or Metering Data Provider requirements

Minimum Consumption – the amount determined by taking the Forecast Consumption for a Jurisdiction and then varying it by subtracting the Forecast Consumption multiplied by the Minimum Percentage.

Minimum Percentage – the percentage set out in the Schedule.

NEM – the National Electricity Market.

Network – an electricity distribution network.

Network Charges – electricity transmission and distribution network charges and any other charges imposed by a Network Operator for Network Services.

Network Operator – the person owning or controlling the Network to which a Premises is connected at a Connection Point.

Network Services – the operation, maintenance and control of a Network and the supply, delivery or conveyance of electricity across a Network (and includes any such services in relation to a transmission network).

Obligation Year means:

a. the period from the Start Date until the end of the calendar year in which the Start Date occurs;

b. each whole calendar year arising during the Term; and
c. the period from the beginning of the calendar year in which the contract terminates or expires (or the Run Off Period ends, whichever is the later) until the date on which the contract terminates or expires (or the Run Off Period ends, whichever is the later).

Off Peak Time Periods – the time periods described as "Off Peak" in the table in section A of Part 2 of the Schedule.

Opt-In Customer – has the meaning given in the Initial Laws, as implemented in the RRO Laws that apply in the locations of the Premises (as applicable).

Peak Time Periods – the time periods described as "Peak/Shoulder" in the table in section A of Part 2 of the Schedule.

Plant – has the meaning given to that term in clause 5.2(g)(i).

Premises – a site specified in the Schedule.

Privacy Policy – EnergyAustralia's privacy policy as amended from time to time and available at **energyaustralia.com.au/privacy**.

Qualifying Contracts – has the meaning given in the Initial Laws, as implemented in the RRO Laws that apply in the locations of the Premises (as applicable).

REE Act – the *Renewable Energy (Electricity) Act 2000 (Cth)* and related legislation and regulations each as amended from time to time.

REE Costs – EnergyAustralia's Environmental Costs in connection with its obligations under the REE Act and the VEET Act.

Regulated Buy-back Credits – the charges for Regulated Buy-back Energy, as determined by multiplying the Regulated Buy-back Rate (in cents per kWh) by the amount of Regulated Buy-back Energy (in kWh).

Regulated Buy-back Energy – any electricity generated by the Plant at a Premises in excess of the electricity consumption at that Premises in any Trading Interval that is exported from the Premises into the Network.

Regulated Buy-back Period – means the period in which the Regulated Buy-back Scheme is in force during the Term or any Run Off Period.

Regulated Buy-back Point of Connection – a point at a Premises where the Customer makes available Buy-back Energy supply to the Network.

Regulated Buy-back Rate – the rate or rates set by EnergyAustralia (as amended from time to time) and published on EnergyAustralia's website www.energyaustralia.com.au for calculating Regulated Buy-back Credits (in cents per kWh), or as otherwise set by the Essential Services Commission under any rules of the Regulated Buy-back Scheme.

Regulated Buy-back Scheme – a mandatory energy buy-back scheme that the Customer may qualify for which is prescribed by law in a Jurisdiction.

Regulatory Authority – means:

a. any government or a governmental, quasi-governmental or judicial entity or authority;
b. a stock exchange; and
c. any other authority, agency, commission, regulator, ministry, department, instrument, tribunal (including any pricing body), enterprise or similar entity,

of Australia that has powers or jurisdiction under any laws, including RRO Laws, over a party or any act relating to this Contract.

Reliability Instrument – has the meaning given in the Initial Laws, as implemented in the RRO Laws that apply in the locations of the Premises (as applicable).

Retailer of Last Resort – the entity appointed under the relevant Jurisdiction's retailer of last resort arrangements to supply electricity to the Customer at a Connection Point following the occurrence of a Last Resort Event.

RRO – means the Retailer Reliability Obligation described in the RRO Laws.

RRO Laws – means the *National Electricity (South Australia) (Retailer Reliability Obligation) Amendment Act 2019 (SA)*, including any regulations made thereunder, and the *National Electricity Amendment (Retailer Reliability Obligation) Rule 2019* as proposed by the Energy Security Board or the Council of Australian Governments Energy Council from time to time (together, the Initial Laws) and any other pieces of legislation, regulations, other statutory instruments (including the Rules) or proclamation or any binding requirements or direction of a Regulatory Authority which are necessary or incidental to implementing the Initial Laws or the RRO in any jurisdiction in Australia.

Rules – the *National Electricity Rules* under the National Electricity Law.

Run Off Period – the period referred to in clause 11.2(a) of this Contract.

Schedule – the document entitled Schedule as part of this Contract.

Shortfall Charges – the amount calculated for each Jurisdiction in accordance with the following formula:

$SC = (AC - AEC_{MIN}) \times (PP - CP) \times LF$

where:

SC	Shortfall Charges
AC	actual aggregate electricity consumption under the Contract for the relevant Contract Year (in MWh)
AEC_{MIN}	Minimum Consumption (in MWh) for the relevant Contract Year
PP	the volume weighted average regional reference price of electricity for the Jurisdiction which the Connection Point is located for the relevant Contract Year
CP	the volume weighted average Energy Charge per MWh of electricity for the relevant Contract Year;
LF	the volume weighted average Loss Factor for the Jurisdiction in which the Connection Point is located for the relevant Contract Year.

Small Customer Thresholds – means the upper consumption thresholds for Small Electricity Customers prescribed by law in each state or territory from time to time.

Small Electricity Customer – a person:

a. who is classified as a small customer by its Distributor in accordance with Division 3 of Part 1 of the *National Energy Retail Rules*;
b. who consumes electricity at a rate less than that prescribed by the laws of the Jurisdiction for the contestable sale of electricity; or
c. for whom the laws of the Jurisdiction require certain terms and conditions in any contract for the purchase of electricity.

Start Date – the date set out in the Schedule, or, if applicable, the date on which EnergyAustralia commences supplying electricity at the Premises after all the transfer requirements have been met and the conditions under clause 4(c) are satisfied.

Supply Charge – the supply charge (if any) set out in the Schedule.

Tax Adjusted Legislative Charge – means the large-scale generation shortfall charge as defined in the *Renewable Energy (Electricity) Large-scale Generation Shortfall Charge Act 2000 (Cth)* and levied under the REE Act divided by (1- Company Tax Rate applicable at the date any large-scale generation shortfall charge is levied).

Tax Invoice – has the meaning set out in the GST Act.

Taxable Supply – has the meaning set out in the GST Act.

Term – means the period between the Start Date and the Expiry Date.

Trading Interval – has the meaning set out in the Rules.

Transfer Requirements – any requirement for the transfer of financial responsibility between electricity retailers, including any Market Operation Rules, NEM Metering and Administration System and Retail Transfer Procedures and Metering Rules.

VEET Act – the *Victorian Energy Efficiency Target Act 2007 (Vic)* and related legislation and regulations each as amended from time to time.

Wholesale Demand Response Unit – has the meaning set out in the Rules.

APPENDIX A

Privacy Statement

EnergyAustralia Pty Ltd collects personal information (**Information**) to assist in facilitating the sale and supply of electricity under this Contract. EnergyAustralia may disclose the Information to its related bodies corporate, contractors and suppliers (such as information technology providers) for the purposes set out in its Privacy Policy and this Privacy Statement.

If the Customer does not provide the Information requested, EnergyAustralia may not be able to finalise this Contract.

Some of EnergyAustralia's contractors and suppliers to whom the Information may be disclosed are located overseas, including in India, the Philippines and New Zealand.

If the Customer has any concerns or queries about the way any personal information provided is managed by EnergyAustralia, the Customer may contact EnergyAustralia at:

The Privacy Officer

EnergyAustralia

Locked Bag 14060

Melbourne City Mail Centre 8001

EnergyAustralia's Privacy Policy, as amended from time to time is available at **energyaustralia.com.au/privacy**. EnergyAustralia's Privacy Policy contains information about how EnergyAustralia collects, uses and discloses personal information and how the Customer can gain access to or seek correction of personal information that held about the Customer. It also contains information about how a privacy complaint may be made and how EnergyAustralia will deal with it.

<# <Conditional Test="//BusinessUnit[text() = 'BSG']" /> #>

APPENDIX B

RESPONSEPRO

21. RESPONSEPRO

21.1 This Appendix B sets out the terms and conditions for the ResponsePro demand response product (**ResponsePro**) and forms part of the Contract. ResponsePro provides an opportunity for customers to receive payment for changing their net electricity usage from the grid during a period nominated by EnergyAustralia.

21.2 Where applicable, the terms of the Contract apply to this Appendix B and if there is any inconsistency between this Appendix B and the Contract the terms of this Appendix B will prevail to the extent of the inconsistency.

21.3 Capitalised terms (where they are not defined in the Contract) are defined within this Appendix B.

21.4 References to clauses mean clauses in this Appendix B, unless indicated otherwise.

22. RESPONSEPRO PROGRAM

22.1 ResponsePro rewards customers for reducing their electricity consumption from the grid during nominated peak periods as determined by EnergyAustralia (**ResponsePro Events**).

22.2 The parties acknowledge that ResponsePro Events may be called for between 1 to 8 hours, and typically occur when there is a supply and demand imbalance in the market such as during hot weather or power station outages.

23. RESPONSEPRO EVENT INVITATION

23.1 At any time EnergyAustralia may provide eligible Customers with an invitation to participate in a ResponsePro Event at one or more ResponsePro Sites (**ResponsePro Event Invitation**) via SMS (or another communication method notified to the Customer).

23.2 Nothing in this Annexure:

a. requires EnergyAustralia to issue a ResponsePro Event Invitation to the Customer at any time; or

b. prevents EnergyAustralia from issuing ResponsePro Event Invitations for multiple ResponsePro Events within the same 24-hour period (whether consecutive or non-consecutive).

23.3 A ResponsePro Event Invitation will provide the following information:

a. the State where the ResponsePro Event is being called;

b. the date on which the ResponsePro Event will take place;

c. the time at which the ResponsePro Event will start (**Start Time**);

d. the time at which the ResponsePro Event will end (**End Time**); and

e. instructions on how the Customer may accept the ResponsePro Event Invitation.

23.4 To participate in the ResponsePro Event, the Customer must:

a. meet the eligibility criteria set out in clause 6.1;

b. ensure that it is otherwise safe to participate in the ResponsePro Event, and that reducing electricity consumption during the ResponsePro Event will not have any adverse effect on the health or safety of any person present at the ResponsePro Site during the ResponsePro Event; and

c. must accept the ResponsePro Event Invitation by following the instructions in the ResponsePro Event Invitation at least 30 minutes prior to the nominated Start Time.

If these conditions are met, the Customer will have Opted-in to participate in the ResponsePro Event in respect of the relevant ResponsePro Site(s).

23.5 If the Customer does not accept the ResponsePro Event Invitation, as set out in clause 3.4, then the Customer will have Opted-out of participating in the ResponsePro Event in respect of the relevant ResponsePro Site(s).

23.6 The Customer will not be penalised for opting out of a ResponsePro Event. If the Customer has Opted-out of a ResponsePro Event, no further notifications about that ResponsePro Event will be sent to the Customer and no ResponsePro Credits will be payable to the Customer for that ResponsePro Event.

24. RESPONSEPRO EVENT PARTICIPATION

24.1 If the Customer has Opted-in to- participate in a ResponsePro Event in respect of a ResponsePro Site, the Customer must use its best endeavours to reduce its net electricity usage from the electricity grid at that ResponsePro Site during the ResponsePro Event by either decreasing its energy consumption or by increasing behind-the-meter generation (e.g., turning up on-site generation or dispatching energy storage like on-site batteries).

24.2 EnergyAustralia may send further notifications to the Customer after it has Opted-in to participate in a ResponsePro Event which may include:

a. notification of or updates to the Start Time;
b. notification of or updates to the End Time; and
c. notification of any variation to or cancellation of the relevant ResponsePro Event.

25. RESPONSEPRO PAYMENTS

25.1 If the Customer has Opted-in to participate in a ResponsePro Event in respect of a ResponsePro Site, EnergyAustralia will pay the Customer a ResponsePro Credit for participating in a ResponsePro Event at that ResponsePro Site if:

a. EnergyAustralia has valid meter data for the Customer at that ResponsePro Site for 10 previous similar days which gives EnergyAustralia sufficient data to establish the Customer's usual consumption at the time of the ResponsePro Event – for example, if the ResponsePro Event occurs on a Monday, and EnergyAustralia has valid meter data for 10 previous business days; and
b. the Customer's calculated ResponsePro Curtailment Volume (kWh), as calculated under clause 5.3, for the ResponsePro Event at that ResponsePro Site is greater than zero.

25.2 The ResponsePro Credit (if any) for a ResponsePro Event in respect of a ResponsePro Site will be calculated as follows:

ResponsePro Credit ($) = ResponsePro Payment Rate ($/kWh) × ResponsePro Curtailment Volume (kWh)

Where:

ResponsePro Payment Rate ($/kWh) = the amount shown as the ResponsePro Payment Rate in $/kWh in the relevant ResponsePro Event Invitation or any subsequent notification provided to the Customer by EnergyAustralia prior to the Start Time for the ResponsePro Event or, if no such amount is shown or notified, then $2/kWh; and

ResponsePro Curtailment Volume (kWh) = the volume determined in accordance with clause 5.3.

25.3 The ResponsePro Curtailment Volume (kWh) for a ResponsePro Event at a ResponsePro Site will be determined using the following steps:

a. Calculate the baseline of electricity usage that would normally have been consumed during the same time period as the ResponsePro Event, if the ResponsePro Event had not taken place;
b. Adjust the baseline above to account for conditions on the day of the ResponsePro Event (ResponsePro Baseline);
c. Calculate the ResponsePro Curtailment Volume, by subtracting the residual electricity consumption during the ResponsePro Event from the ResponsePro Baseline.

Thresholds and filters may be applied to the calculation methodology to ensure the ResponsePro Curtailment Volume rewards customers that have made a statistically significant reduction in electricity consumption during the ResponsePro Event.

25.4 Where a ResponsePro Credit becomes payable to the Customer in accordance with clause 5.2, EnergyAustralia will apply such amount as a credit against the Customer's next invoice issued under this Contract.
25.5 The Customer may at any time request a review of the ResponsePro Credit and EnergyAustralia will use best endeavours to complete the review and provide details within 10 business days.

26. CUSTOMER ELIGIBILITY AND ACKNOWLEDGEMENTS

26.1 To be eligible for participation in a ResponsePro Event, the Customer must ensure that:

a. no person residing at the Customer's premises during the ResponsePro Event requires the supply of energy for any 'life support equipment' (as defined in the Energy Laws); and
b. it is otherwise safe to participate in the ResponsePro Event, and that reducing electricity consumption during the ResponsePro Event will not have any adverse effect on the health or safety of any person present at the ResponsePro Site during the ResponsePro Event.

26.2 The Customer acknowledges it is solely responsible for ensuring that the conditions at the relevant ResponsePro Site are safe to participate in a ResponsePro Event. If the Customer is unable to comply with clause 6.1 at a relevant ResponsePro Site, or otherwise considers it is unsafe to participate in the ResponsePro Event, Customer must not Opt-in to participate in the ResponsePro Event.
26.3 The Customer must not enter into any other demand response agreements for a ResponsePro Site unless EnergyAustralia has provided prior written consent or in the case of participation in a wholesale demand response as a Demand Response Serve Provider or customer of a Demand Response Service Provider, the Customer must provide notice to EnergyAustralia in accordance with clause 18.2 of the Contract.
26.4 The Customer consents to receiving SMS notifications associated with this product from EnergyAustralia which do not include an unsubscribe facility.

27. DATA

27.1 The Customer acknowledges that in order for EnergyAustralia to provide ResponsePro, EnergyAustralia and EnergyAustralia's third-party service providers will share the Customer's nominated contact details (including name, email address, phone number) and may also use and share the data on the Customer's electricity usage collected by the Customer's electricity meter. The Customer consents to its registered metering coordinator providing the Customer's electricity metering data to EnergyAustralia and EnergyAustralia's third-party service providers to use that electricity metering data for the purpose of identifying the Customer's electricity usage and providing the Customer with the ResponsePro product.

28. GST

28.1 The Demand Response Payments or any other consideration under this Appendix B includes any GST payable on that supply.

29. VARIATION AND TERMINATION OF THIS APPENDIX B

29.1 Subject to clause 9.4, this Appendix B may not be varied except in writing signed by both parties.

29.2 Either party may terminate this Appendix B by notifying the other party in writing. The parties agree that termination of this Appendix B will not affect the supply of electricity to the Customer under the Contract.

29.3 EnergyAustralia reserves the right to modify the methodology used to calculate the ResponsePro Curtailment Volume at any time.

29.4 EnergyAustralia may vary any terms in this Appendix B if there is a Change in Law that impacts the provision, pricing or settlement of wholesale, retail or behind-the-meter services. However, the variation must only reflect the change in costs resulting from the Change in Law.

29.5 Unless otherwise agreed, termination of this Appendix B does not terminate the Customer's Contract nor any other agreement between EnergyAustralia and the Customer.

29.6 This Appendix B will run for the same term as the Customer's Contract unless terminated earlier and if the Customer's Contract ends, this Appendix B also terminates with effect from the same date.

30. DEFINITIONS

In this Appendix B:

End Time has the meaning given in clause 3.3(d) as updated under clause 4.2(b) (if applicable).

Opted-in means, in respect of a ResponsePro Event at a ResponsePro Site, that a Customer is willing and able to participate in a ResponsePro Event at that ResponsePro Site in accordance with this Appendix B.

Opted-out means, in respect of a ResponsePro Event at a ResponsePro Site, that the Customer is not required to participate in a ResponsePro Event at that ResponsePro Site and is not entitled to any ResponsePro Credits under this Appendix B.

ResponsePro has the meaning given in clause 1.1.

ResponsePro Credit means, in respect of a ResponsePro Event at a ResponsePro Site, the value calculated in accordance with clause 5.2 for that ResponsePro Event at that ResponsePro Site.

ResponsePro Curtailment Volume (kWh) means, in respect of a ResponsePro Event at a ResponsePro Site, the value calculated in accordance with clause 5.3 for that ResponsePro Event at that ResponsePro Site.

ResponsePro Event has the meaning given in clause 2.1.

ResponsePro Event Invitation has the meaning given in clause 3.1.

ResponsePro Event Period means, in respect of a ResponsePro Event, the period beginning at the Start Time for that ResponsePro Event and ending at the End Time for that ResponsePro Event.

ResponsePro Site means each site listed in the Attachment to this Appendix B, being the sites at which the Customer may elect to have Opted-in to a ResponsePro Event.

Start Time has the meaning given in clause 3.3(c) as updated under clause 4.2(a)(if applicable).

ATTACHMENT TO APPENDIX B – RESPONSEPRO SITES

The following table lists the ResponsePro Sites that may participate in ResponsePro Events and the relevant contact details for those sites.

Site address	NMI	ResponsePro Contact	Mobile No.	Email Address

EA BSG Customer Retail Electricity Contract (202604_2)
EnergyAustralia Pty Ltd. ABN 99 086 014 968.