

# Terms and Conditions

This Contract sets out the terms and conditions upon which EnergyAustralia Pty Ltd ABN 99 086 014 968 (**EnergyAustralia**) (referred to in these terms and conditions as "we", "our" and "us") agrees to provide you the Demand Response Product.

You should read and understand these Terms and Conditions. If you have any questions about this Contract, please do not hesitate to contact <https://eademandresponse.zendesk.com/hc/en-us/requests/new>

## 1. **TERM**

- (a) This Contract commences on the date you accept these Terms and Conditions by clicking "Accept" where indicated on the Demand Response Product registration page and continues until it is terminated by us under clause 1(b) or by you under clause 1(c) (**Term**).
- (b) We may terminate this Contract:
  - (i) immediately where you no longer satisfy any one or more of the eligibility criteria under clause 2; or
  - (ii) by providing you with prior written notice.
- (c) You may terminate this Contract by:
  - (i) opting out of all Demand Response Product email and SMS communication with us; or
  - (ii) giving us written notice.

## 2. **ELIGIBILITY CRITERIA**

You must satisfy the following criteria in order to be entitled to receive Demand Response Payments under clause 5 of this Contract:

- (a) you are a current EnergyAustralia retail electricity customer in New South Wales;
- (b) you have a "type 4" meter at the Premises; and
- (c) neither you, nor any other person, is on life support at the Premises.

## 3. **CUSTOMER ACKNOWLEDGMENTS**

- (a) Your personal safety is a paramount consideration for us. You must ensure that you consider your own personal safety and those in your care before responding to a Demand Response Request under this Contract. You should not participate where any resulting energy reduction could result in discomfort or injury sustained by yourself or other persons in the Premises, including those in your care.
- (b) You acknowledge that:
  - (i) you are taking part in a trial and that elements of the Demand Response Product may change as a result of testing;
  - (ii) we have provided you with access to a copy of, and you understand, the Demand Response Product FAQs available at

<https://www.energyaustralia.com.au/home/help-and-support/faqs/powerresponse-premium>

- (iii) we have explained to you, and you understand, how the Demand Response Product works, including how you will receive communication regarding the times and duration of any Demand Response Events;
  - (iv) we have explained to you, and you understand, the need for you to consider your own specific health and safety requirements, and those of any other occupant of the Premises; and
  - (v) you have considered and are satisfied that any reduction in electricity usage that may result from responding to a Demand Response Request under this Contract will not adversely affect your health or safety, or that of any other person in the Premises, including persons under your care.
- (c) You acknowledge and agree that you have not, and will not during the Term participate in any other demand response program (whether or not it is the same or similar to this Demand Response Product) offered by us or a third party in relation to the Premises without our prior written consent.

#### 4. **DEMAND RESPONSE REQUESTS**

- (a) We may, from time to time, send a demand response request (**Demand Response Request**) to you via a series of SMS and email communications to:
- (i) alert you that a Demand Response Event may take place;
  - (ii) activate a Demand Response Event requesting you to reduce your consumption; and
  - (iii) to notify you that an event has concluded or that an event will no longer be taking place.
- (b) A Demand Response Request will contain the following information:
- (i) the day, time and duration required for the Demand Response Event; and
  - (ii) a request for you to reduce electricity usage at the Premises.
- (c) We are not able to give you any guarantee about the number or frequency of Demand Response Requests. We intend to only issue a Demand Response Event:
- (i) between 10am and 10pm (AEST);
  - (ii) no more than 20 times in each calendar year during the Term (including up to 4 activations for the purpose of testing and re-testing during that same period); and
  - (iii) with respect to Demand Response Events for a duration of not less than 1 hour and not exceeding 4 hours.
- (d) In addition to Demand Response Requests, we may send you additional SMS or email notifications to provide you with energy saving tips and usage insights or as otherwise needed in order for us to provide the Demand Response Product to you or seek feedback in relation to the Demand Response Product.
- (e) You acknowledge that the receipt of SMS and email notifications from us is an essential element of this Demand Response Product. You consent to receiving

notifications which do not include an unsubscribe facility and acknowledge that we have informed you of the methods for opting out of individual events or the Demand Response Product more generally.

## 5. PAYMENTS TO CUSTOMER

(a) You will be entitled to receive payments under this Contract as follows (**Payments**):

- (i) **Program Signup Payment:** a once-off payment of \$5.00 which you become eligible for upon signing up via the Demand Response Product registration page;
- (ii) **Event Participation Payments:** a payment of \$5.00 for each Demand Response Event that you participate in (you will be deemed to have participated in an event if you do not opt out of that specific event via the opt out mechanisms available to you);
- (iii) **Demand Response Payments** calculated in accordance with the following procedure:

(A) First, we calculate what's called your **historical usage** based on your electricity usage. This is how much electricity you would use during the event window on a normal day (for example, assuming there are no extreme weather conditions). We are continually refining the method for calculating your historical usage, so this may change from time to time.

(B) Second, we multiply the **historical usage** by a variable that caters for specific factors, such as location and temperature, to give an estimate of how much electricity you would have used during the actual event period if you weren't taking part in the Demand Response Event. This is your **baseline**.

*For example: A family typically may use 5 kWh per 30 minute interval on a similar day to when a 4 hour Demand Response Event takes place (**historical usage** = 5 kWh per 30 minute interval). This is taken and multiplied by a factor of 2 to adjust for forecasted higher temperatures during the Demand Response Event to reflect that usage would typically be higher as a result. This gives a **baseline** of 10 kWh per 30 minute interval (5 kWh x 2) for the Demand Response Event period.*

(C) Third, we determine your actual electricity usage during the period of the Demand Response Event (per 30 minute interval) on the basis of the electricity usage data obtained from your electricity meter.

(D) Finally, we calculate your Demand Response Payment by multiplying the difference between your actual electricity usage and your **baseline** for each 30 minute interval within the period of the Demand Response Event by the incentive amount of \$2.00 per kWh.

*For example: If, during the 4-hour Demand Response Event, you reduce your electricity usage by 1.00 kWh for each of the 30 minute intervals within the 4 hours, you would receive \$2.00 multiplied by the 1.00 kWh reduction for each of the 8 30 minute intervals.*

*1.00 kWh x 8 (each 30 minute interval) x \$2.00 = \$16.00*

*However, if you only reduced your electricity usage by 1 kWh in a 30 minute interval, your Demand Response Payment will be \$2.00.*

- (iv) **Feedback Payments:** we may from time to time ask for your feedback, via a post-event survey or otherwise, and you will receive a payment of \$5.00 for completing the survey and submitting it to us.
- (b) Where a Demand Response Payment becomes payable to you in accordance with this Contract and the applicable Product Schedule, EnergyAustralia will apply such amount as a credit against your electricity account within 15 Business Days. Such amount will then be deducted from the next invoice issued under your electricity retail contract with EnergyAustralia after the credit has been applied.
- (c) We may, subject providing at least 30 days' prior written notice, vary:
  - (i) any of the Payments that may be payable to you under this Contract; or
  - (ii) the calculation methodology set out in this clause 5.

## 6. **NOTICES**

- (a) A notice, consent or other communication under this document is only effective if it is in writing and either left at the addressee's address or sent to the addressee by mail, email or SMS.
- (b) A person's addresses are those set out on the Demand Response Product registration page, or as the person otherwise notifies the sender.

## 7. **ENERGYAUSTRALIA'S LIABILITY**

- (a) Under the Australian Consumer Law, consumer guarantees apply to the supply of "goods" and "services" to "consumers" (within the meaning of the Australian Consumer Law). If any such consumer guarantee applies to any goods or services we supply under this Contract then our liability (if any) for any failure to comply with that guarantee in connection with any goods or services (that are not of a kind ordinarily acquired for personal, domestic or household consumption) is limited, as far as the law permits and at our option, to resupplying the goods or services or paying for their resupply.
- (b) Subject to clause 7(a) and to the extent permitted by law, all conditions, warranties, guarantees, rights, remedies, liabilities or other terms implied or conferred by statute, custom or the general law that impose any liability or obligation on EnergyAustralia are expressly excluded under this Contract.
- (c) To the extent permitted by law, EnergyAustralia is not liable to you for any loss, harm, damage, cost or expense, including any indirect or consequential loss, arising directly or indirectly under or in connection with this Contract or the performance or non-performance under this Contract and whether arising under any indemnity, statute, in tort (for negligence or otherwise) or on any other basis in law or equity.

## 8. **YOUR PRIVACY**

- (a) You consent to us using, collecting, disclosing and transferring your personal information and sending you information in accordance with our Privacy Policy, available at [energyaustralia.com.au/privacy](http://energyaustralia.com.au/privacy), as amended from time to time. This may include using your personal information in order to sell, deliver and market energy to you and for customer analysis purposes. We may also provide you with information on other products and services available to our customers. Personal information is shared within EnergyAustralia's group of companies and disclosed to other service providers, including BillCap Pty Ltd and credit reporting bureaus, to the extent required to undertake these activities. Some of those companies and service

providers may be located overseas. For further information, please see the "How do we use your information?" section of our Privacy Policy.

- (b) You acknowledge that in order for us to provide the Demand Response Product, We and our third party service providers (including BillCap Pty Ltd) will need to use and share the data on your electricity usage collected by your electricity meter. You consent to your registered metering coordinator providing your electricity metering data to us and our third party service providers (including BillCap Pty Ltd) to use that electricity metering data for the purpose of identifying your electricity usage and providing you with the Demand Response Product.
- (c) Subject to this clause 8 and our Privacy Policy, you consent to our third party service providers contacting you about participating in a study and/or research project, which may include an in-depth insights session with other EnergyAustralia retail electricity customers.

9. **GST**

- (a) Words defined in the GST Law have the same meaning in this clause, unless the context makes it clear that a different meaning is intended.
- (b) The Payments or any other consideration under this Contract includes any GST payable on that supply, and EnergyAustralia is responsible for payment of that GST.
- (c) EnergyAustralia must, within 20 Business Days of request from you, issue a tax invoice (or an adjustment note) to you for any supply under or in connection with this Contract.

10. **GENERAL**

- (a) This Contract is governed by the laws of the State of New South Wales and you agree to submit to the non-exclusive jurisdiction of the courts in that State.
- (b) This Contract contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this Contract and has no further effect.
- (c) This Contract may not be varied except in writing signed by a duly authorised representative of each of the parties.
- (d) This Contract may consist of a number of counterparts each signed by one or more parties to this Contract. When taken together, the signed counterparts are treated as making up the one document.
- (e) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Contract enforceable, unless this would materially change the intended effect of this Contract.
- (f) Each party must pay its own expenses incurred in negotiating and executing this Contract.

11. **DEFINITIONS**

The following definitions apply in this document.

**Australian Consumer Law** means the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

**Business Day** means a day other than a Saturday or Sunday when the banks in Sydney are open for business.

**Contract** means this contract.

**Demand Response Event** means the period of time where you are eligible to receive a Demand Response Payment for the reduction of the electricity usage at your Premises, pursuant to a Demand Response Request.

**Demand Response Product FAQs** refers to "frequently asked questions" about this Demand Response Product available on our website. PowerResponse is the name of the trial that is being conducted as part of the Demand Response Program.

**Demand Response Payment** means the form of payment described in clause 5(a)(iii).

**Demand Response Product** means the demand response product, 'PowerResponse', which alerts you of the occurrence of a Demand Response Event and provides you with energy usage data during a Demand Response Event.

**Demand Response Request** has the meaning given in clause 4.

**Event Participation Payment** means the form of payment described in clause 5(a)(ii).

**Feedback Payment** means the form of payment described in clause 5(a)(iv).

**GST** has the meaning given in the GST Law.

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

**Payment** means any of the payments described in clause 5(a).

**Premises** means your address as entered into the Demand Response Product registration page.

**Program Signup Payment** means the form of payment described in clause 5(a)(i).

**SMS** means short message service via electronic text message.

**Term** has the meaning given in clause 1(a).

**Terms and Conditions** means these terms and conditions that form part of the Contract.