

Terms and Conditions

This Contract sets out the terms and conditions upon which we agree to provide you the Demand Response Product. This Contract between you and EnergyAustralia Pty Ltd ABN 99 086 014 968 (**EnergyAustralia**) is made up of:

- 1. Terms and Conditions:** This sets out the standard terms and conditions applicable to all Demand Response Products that may be provided by EnergyAustralia under this Contract.
- 2. Product Schedule:** This sets out the special conditions that are applicable to the particular Demand Response Product we are providing you.

You should read and understand both of these documents. If you have any questions about this Contract, please do not hesitate to contact arenatrial@energyaustralia.com.au

1. **TERM**

- (a) This Contract commences on the date that you have accepted these Terms and Conditions by clicking "Accept" where indicated in the Online Portal and expires on 31 May 2018, subject to:
 - (i) earlier termination of this Contract under clause 1(c); and
 - (ii) renewal of this Contract under clause 1(b),**(Term).**
- (b) The Term will be automatically renewed for a further period expiring on 30 November 2020, unless EnergyAustralia notifies you in writing on or before 31 May 2018 that the Term of this Contract will not be renewed.
- (c) EnergyAustralia may terminate this Contract:
 - (i) immediately where you have breached a material term of this Contract and have not rectified that breach within 14 days from receipt of a written notice from EnergyAustralia;
 - (ii) immediately where you no longer satisfy any one or more of the eligibility criteria under clause 2; or
 - (iii) upon EnergyAustralia providing you with 30 days written notice of its intention to terminate this Contract.
- (d) Where this Contract is automatically renewed under clause 1(b), you may, at any time after 31 May 2018, terminate this Contract by providing at least 30 days' prior written notice to EnergyAustralia. For the avoidance of doubt, you are not entitled to terminate this Contract on or before 31 May 2018.

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, Victoria or South Australia;
- (b) you have a "type 4" or "type 5" meter at the Premises;

- (c) neither you, nor any other person, is on life support at the Premises; and
- (d) you are not a Vulnerable Customer.

3. **CUSTOMER ACKNOWLEDGMENTS**

- (a) Your personal safety is a paramount consideration for EnergyAustralia. 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 will result in discomfort or injury sustained by yourself or those in your care.
- (b) You acknowledge that:
 - (i) EnergyAustralia has provided you with access to a copy of, and you understand, the PowerResponse FAQs available at <https://energyaustraliadr.zendesk.com>;
 - (ii) EnergyAustralia has explained to you, and you understand, how the applicable Demand Response Product works, including the circumstances, times and duration of any electricity supply interruptions to your Premises during the Term;
 - (iii) EnergyAustralia has 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;
 - (iv) you have considered and are satisfied that any electricity supply interruptions that may result from a Demand Response Request under this Contract will not adversely affect your health or safety, or that of any other occupant of the Premises, including persons under your care; and
 - (v) you have read and understood the Product Schedule including any additional acknowledgements made by you under the Product Schedule.

4. **DEMAND RESPONSE REQUESTS**

EnergyAustralia may, from time to time, send a demand response request (**Demand Response Request**) to you in accordance with the applicable Product Schedule.

5. **PAYMENTS TO CUSTOMER**

- (a) You will be entitled to receive certain payments under this Contract (**Demand Response Payments**) as outlined in, and subject to the conditions of, the applicable Product Schedule.
- (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) Where this Contract is automatically renewed under clause 1(b), EnergyAustralia may, at any time after 31 May 2018, vary:
 - (i) any of the Demand Response Payments that may be payable to you under this Contract; or
 - (ii) the Calculation Methodology,

by providing at least 30 days' prior written notice to you.

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 notice, consent or other communication that complies with this clause is regarded as given and received:
 - (i) if it is delivered, when it has been left at the addressee's address;
 - (ii) if it is sent by mail, three business days after it is posted;
 - (iii) on the same day if it is sent in electronic form by email or SMS between 9.00am (Melbourne time) and 11.00pm (Melbourne time) on that day.
- (c) A person's addresses are those set out in the Online Portal, 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, 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 our group of companies and disclosed to other service providers, including 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) Subject to this clause 8 and our Privacy Policy, you consent to an EnergyAustralia third party service provider 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 Demand Response 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 Victoria 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.
- (g) If there is any inconsistency between the Terms and Conditions and the applicable Product Schedule, then the applicable Product Schedule will prevail to the extent of the inconsistency.

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).

Calculation Methodology means the method for calculating your "Deemed Baseline Consumption" (including any adjustments to the "Deemed Baseline Consumption"), as outlined in clause 6 of the Product Schedule.

Contract means this contract, including the Terms and Conditions and Product Schedule.

Demand Response Event means the reduction of the electricity supply at your Premises, pursuant to a Demand Response Request.

Demand Response Payment has the meaning given in clause 5(a).

Demand Response Product means the demand response product described in the Product Schedule.

Demand Response Request has the meaning given in clause 4.

GST has the meaning given in the GST Law.

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

Online Portal means the portal available at <https://demandresponse.energyaustralia.com.au>.

Premises means your address as entered into the Online Portal.

Product Schedule means the Schedule (Demand Response Product), that forms part of the Contract.

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.

Vulnerable Customer means an EnergyAustralia retail electricity customer designated as such by a "hardship indicator" on the customer's account.

SCHEDULE

DEMAND RESPONSE PRODUCT

1. Demand Response Product

The Demand Response Product is a program offered by EnergyAustralia to eligible residential customers in Victoria, South Australia and New South Wales. The program provides customers with an opportunity to voluntarily reduce their electricity consumption to help secure the electricity grid during a grid supply event and in doing so earn credits on their electricity bill. The Demand Response Product operates via a series of SMS communications to firstly, alert the customer that a demand response event may take place, secondly, to activate a demand response event requesting the customer to reduce their consumption, and thirdly by a notification to let customers know that an event has concluded or that an event will no longer be taking place. Eligible participating customers will then be rewarded with electricity bill credits.

2. Application of this Schedule

This Schedule only applies where the following conditions have been met:

- (a) you satisfy the eligibility criteria in clause 2 of the Terms and Conditions;
- (b) you have signed up to the Demand Response Product via the Online Portal; and
- (c) you have access to SMS necessary to receive Advance Notifications, Demand Response Requests and other notifications from EnergyAustralia, you acknowledge that receipt of SMS notifications from us is an essential element of this Demand Response Product and you consent to receiving notifications which do not include an unsubscribe facility.

3. Information to be contained in a Demand Response Request

A Demand Response Request issued by EnergyAustralia under clause 4 of the Terms and Conditions must contain the following information:

- (a) the day, time and duration required for the Demand Response Event; and
- (b) a request for you to reduce your Premises' electricity consumption.

4. How a Demand Response Request is to be issued

4.1 Advance Notice

We will use our best endeavours to provide you with advance notice that a Demand Response Request may be issued (**Advance Notice**). This Advance Notice, if issued, will be sent to you via SMS and may be sent days or hours prior to us sending you a Demand Response Request. Following the issue of the Advance Notice, we may or may not issue you with a Demand Response Request. This Advance Notice is not a Demand Response Request for which you can activate a Demand Response Event. You may only activate a Demand Response Event in response to a Demand Response Request.

4.2 Demand Response Request

A Demand Response Request may only be issued by EnergyAustralia under this Contract:

- (a) between 10am and 10pm (EST);

- (b) no more than 20 times in each period of 12 months from 1 December to 30 November during the Term (including up to 4 activations for the purpose of testing and re-testing during that same period); and
- (c) with respect to Demand Response Events for a duration of not less than 1 hour and not exceeding 4 hours.

4.3 Notice of conclusion or cancellation of Demand Response Event

- (a) You will be separately notified when either:
 - (i) the Demand Response Event has concluded (where a Demand Response Request has been activated); or
 - (ii) the Demand Response Event has been cancelled or will otherwise no longer be taking place.
- (b) The notifications above will be sent via SMS and may be sent as late as 11pm on the day that the Demand Response Event is concluding.

4.4 Other notifications as needed

In addition to the notifications set out above in clauses 4.1 to 4.3, we may send you additional SMS notifications as needed in order for us to provide the Demand Response Product to you.

5. Activation of Demand Response Request

Where you have been issued with a Demand Response Request under clause 4 of the Terms and Conditions, you may (but are not required to) activate the Demand Response Event by manually switching off the relevant appliance or equipment at the Premises in accordance with the requirements specified in the Demand Response Request.

6. Payments

Subject to clause 5(c) of the Terms and Conditions, you will be entitled to receive the following Demand Response Payments, where applicable:

Fixed Amount	Event
\$25.00	Payable when you sign up in accordance with clause 1(c) of this Schedule.
\$10.00	Payable per Demand Response Request issued to you in accordance with clause 4 of this Schedule.
\$10.00	Payable per Demand Response Event where: (a) you have activated the Demand Response Request under clause 4 of this Schedule; and (b) the Actual Metered Consumption during the Demand Response Event is less than the Deemed Baseline Consumption during the Demand Response Event by a margin of 10% or greater. See our explanation below as to how your Actual Metered Consumption and Deemed Baseline Consumption is calculated by us.
\$25.00	Payable where EnergyAustralia has requested that you complete a survey, and such survey has been completed by you and returned to EnergyAustralia as required.

Calculation of Actual Metered Consumption and Deemed Baseline Consumption

Step 1: Calculate your Actual Metered Consumption

The first step is to calculate your Actual Metered Consumption. This is the actual volume of electricity (measured in kWh) that is consumed at your Premises during the Demand Response Event. This consumption data is obtained from your type 4 or type 5 meter at the Premises.

Step 2: Calculate your Deemed Baseline Consumption

The second step is to calculate your Deemed Baseline Consumption. This is the amount of electricity (measured in kWh) that you **would have** consumed during that same period of time, if the Demand Response Event had not occurred. We calculate this by looking at the average consumption for the same period of time across the 10 previous business days (other than days where a Demand Response Event has occurred).

For example, if the Demand Response Event occurred between 12pm-4pm on a Wednesday, then we would calculate your total consumption between 12pm-4pm across those 10 previous business days, and divide that number by 10 to get an average consumption for each day. That average then becomes the Deemed Baseline Consumption (subject to the adjustment at Step 3 below).

Step 3: Adjust the Deemed Baseline Consumption

The third step is to adjust the Deemed Baseline Consumption to reflect the particular conditions on the day of the Demand Response Event. For example, if that Wednesday were an unusually hot day, then it is possible that you would be consuming a higher amount of electricity during that day than you ordinarily would have (for example, through additional air conditioning). We therefore need to adjust the Deemed Baseline Consumption to reflect those particular conditions.

To calculate the adjustment:

- We first define and assess a 'Morning of Adjustment' (MoA) period, being the 3 hour period leading up to the Demand Response Event, from 4 to 1 hour prior. In the example above, that would be from 8am to 11am on the Wednesday.
- We then look at your total consumption between that same 3 hour MoA period (ie, 8am-11am) across the 10 previous business days (other than days where a Demand Response Event has occurred). We divide that total number by 10 to get an average consumption per day for that 3 hour MoA period.
- That average consumption is then **deducted** from your consumption during the 3 hours leading up to the Demand Response Event. This results in an *adjustment amount* (which may be positive or negative).
- To work out the adjustment to the Deemed Baseline Calculation, we divide the *adjustment amount* by 3, to get an average hourly consumption. That amount is then multiplied by the number of hours comprising the Demand Response Event (in the above example, 4 hours). The resulting amount is then **added** to the Deemed Baseline Consumption.

We may, from time to time, develop a more detailed methodology to calculate your Deemed Baseline Consumption consistent with the principles set out in Steps 2 and 3 above, subject to any changes notified under clause 5(c)(ii) of the Terms and Conditions. Further information may be obtained by contacting EnergyAustralia at arenatrial@energyaustralia.com.au