



APEX ENERGY
NETWORKS



Market Terms
and Conditions

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Preamble

This contract is about the sale of Energy to you as a Small Customer at your premises. It is a market retail contract that starts without you having to sign a document agreeing to these terms and conditions.

In addition to this contract, the Energy Laws and other consumer laws also contain rules about the sale of Energy and we will comply with these rules in our dealings with you. For example, the National Energy Retail Law and the National Energy Retail Rules ('the Rules') set out specific rights and obligations about Energy marketing, payment methods and arrangements for Customers experiencing payment difficulties.

You will also have a separate contract with us as your embedded network operator, called a Network Connection Agreement. The Network Connection Agreement deals with the supply of Energy to your premises and can be found on our website. Your meter will be known as a 'child meter' within the embedded network. The main meter or 'parent meter' will have a separate contract with the local network provider also known as a Network Connection Agreement.

1 The parties

This contract is between:

- Apex Energy Holdings Pty Ltd who sells Energy to you at your premises (in this contract referred to as "we", "our" or "us"); *and*
- You, the Customer to whom this contract applies (in this contract referred to as "you" or "your").

2 Definitions and interpretations

- a Terms used in this contract have the same meanings as they have in the National Energy Retail Law and the Rules. However, for ease of reference, a simplified explanation of some terms is given at the end of this contract.
- b Where the simplified explanations given at the end of this contract differ from the definitions in the National Energy Retail Law and the Rules, the definitions in the National Energy Retail Law and the Rules prevail.

3 How these terms and conditions apply to you

These are our market terms and conditions. This contract sets out the terms and conditions for a market retail contract for a Small Customer under the National Energy Retail Law and the Rules.

These terms and conditions apply to you if:

- you are a Residential Customer; *or*
- you are a business Customer who is a Small Customer; *and*
- you request us to sell Energy to you at your premises; *and*

The regulatory requirements define you as a Small Customer if:

- In NSW, QLD, SA or the ACT you are a business Customer that uses less than 100 MWh of electricity per year.
- In Tasmania you are a business Customer that uses less than 150MWh of electricity per year.
- In VIC that you are a business Customer that uses less than 40 MWh of electricity per year.

We may still supply your electricity if you are not a Small Customer but additional regulatory protections may not cover you. Your network providers determine if you are a Small Customer. It's your responsibility to tell us if your Energy usage changes significantly.

4 When this agreement starts and ends

4.1 When does this Agreement start?

This Agreement starts on the Acceptance Date and continues until you or we end it. We will start to sell you Energy and other products on the Supply Start Date which will either be:

- the end of the cooling off period;
- the date your Supply Address transfers to us (for more details of the transfer process and why it may be after the Acceptance Date see *clause (6)*); or
- another date we agree with you.

4.2 When does this agreement end?

- a This Agreement ends if:
- i. you give us a notice stating you wish to end the contract – subject to *paragraph (b)*, on a date advised by us, of which we will give you at least 5 but no more than 20 Business Days' notice; or
 - ii. we both agree to a date to end the contract—on the date that is agreed; or
 - iii. you start to buy Energy for the premises from us or a different Retailer under a Customer retail contract—on the date the different retail contract starts; or
 - iv. a different Customer starts to buy Energy for the premises—on the date that Customer's contract starts; or

4 When this agreement starts and ends (cont'd)

- v. the premises are disconnected, and you have not met the requirements in the Rules for reconnection—10 Business Days from the date of Disconnection.
- b If you do not give us safe and unhindered access to the premises to conduct a final meter reading (where relevant), this contract will not end under 4.2a(i) until we have issued you a final bill and you have paid any outstanding amount for the sale of Energy.
- c Rights and obligations accrued before the end of this contract continue despite the end of the contract, including any obligations to pay amounts to us.

4.3 Vacating your premises

- a If you are vacating your premises, you must provide your forwarding address to us for your final bill in addition to a notice under *clause (4.2a)* of this contract.
- b When we receive the notice, we must use our best endeavours to arrange for the reading of the meter on the date specified in your notice (or as soon as possible after that date if you do not provide access to your meter on that date) and send a final bill to you at the forwarding address stated in your notice.
- c You will continue to be responsible for charges for the premises until your contract ends in accordance with *clause (4.2)* of this contract.

5 Scope of this contract

5.1 What is covered by this contract?

Under this contract we agree to sell you Energy at your premises. We also agree to meet other obligations set out in this contract and to comply with the Energy Laws including where we sell you electricity, the provision, installation and maintenance of your meter.

In return, you agree:

- to be responsible for charges for Energy supplied to the premises until this contract ends under *clause (4.2)* even if you vacate the premises earlier; *and*
- to pay the amounts billed by us under this contract; *and*
- to meet your obligations under this contract and the Energy Laws.

5.2 What is not covered by this contract?

This contract does not cover the physical connection of your premises to the distribution system, including metering equipment and the maintenance of that connection.

6 Cooling off period

You can cancel this Agreement during the 10 Business Day cooling off period. The cooling off period starts from the later of the day after:

- the Acceptance Date; *or*
- you receive this Agreement and the Customer disclosure statement provided to you with these Agreement terms; *or*
- you can cancel during the cooling off period even though you have signed this Agreement or agreed to it over the phone or online. To cancel, inform us verbally or in written form. Once you have done this we will end your contract immediately.

7 The transfer process

If we are not currently your Retailer for your supply address, we will arrange for your supply address to transfer to us from your current Retailer. You agree to us taking all necessary steps to do so. We may stop the transfer and cancel this Agreement before the transfer is completed:

- where the transfer does not occur within three months of the Acceptance Date;
- where you do not meet our credit requirements;
- where any information in the Details section is incorrect; or
- for any other reason as long as it is not unreasonable to do so.

If we do so, we will let you know and we may offer you an alternative agreement. Alternatively, we may cancel your Energy Plan (without cancelling this Agreement) if the transfer does not occur within six months of the Acceptance Date. We will let you know if this happens.

8 Creditworthiness

We may disclose your personal information to a credit reporting agency before we sell Energy to you to obtain a consumer credit report about you. We can only disclose your identity particulars, like your name and address and the fact that you are entering into an agreement with us.

9 Energy plans

- a This Agreement may include an Energy Plan. An Energy Plan generally includes benefits or features for a limited time such as 12 or 24 months. This Agreement will continue after the expiry of your Energy Plan, but the benefits or features of the Energy Plan will end when the Energy Plan ends.

- b** We will do our best to let you know when your Energy Plan is about to end. We may offer to extend your Energy Plan or offer you a new Energy Plan. We will notify you that your benefit may be about to end no earlier than 40 Business Days, but not later than 20 Business Days before the end of the benefit period. If we do and you don't let us know within 20 Business Days that you do not want to take up the new Energy Plan we will consider you have agreed to it. The new or extended Energy Plan will then become part of this Agreement.

Note for Queensland Customers: We will notify you of any increase to your tariffs or charges, at least 10 Business Days before the variation applies.

- c** If we withdraw your Energy Plan from sale we may end your Energy Plan by giving you 20 Business Days' notice as long as we provide a new Energy Plan with similar benefits to you and the ending of the Energy Plan would not be detrimental to you.

10 Your general obligations

10.1 Full information

You must give us any information we reasonably require for the purposes of this contract. The information must be correct, and you must not mislead or deceive us in relation to any information provided to us.

10.2 Updating information

You must tell us promptly if information you have provided to us changes, including if your billing address changes or if your use of Energy changes (for example, if you start running a business at the premises).

10.3 Life Support Equipment

- a** If a person living at your premises requires Life Support Equipment, you must register the premises with us or your Distributor. To register, you will need to give written confirmation from a registered medical

10 Your general obligations (cont'd)

practitioner of the requirement for Life Support Equipment at the premises.

- b** You must tell us or your Distributor if the Life Support Equipment is no longer required at the premises.
- c** If the premises are registered as having Life Support Equipment, we must give you:
 - general advice relating to the Retailer Planned Interruption to the supply of electricity to the premises;
 - at least 4 Business Days' notice in writing of any Retailer Planned Interruption to the supply of electricity to the premises; *and*
 - an emergency telephone contact number.

10.4 Obligations if you are not an owner

If you are not an owner and you cannot meet an obligation relating to your premises under this contract, you will not be in breach of the obligation, if you take all reasonable steps to ensure that the owner or other person responsible for the premises fulfils the obligation.

11 Our liability

- a** The quality and reliability of your electricity supply is subject to a variety of factors that are beyond our control as your Retailer, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the distribution system and the acts of other persons (such as your Distributor), including at the direction of a Relevant Authority.
- b** To the extent permitted by law, we give no condition, warranty or undertaking, and we make no representation to you, about the condition or suitability of Energy, its quality, fit for purpose or safety, other than those set out in this contract.

- c Unless we have acted in bad faith or negligently, the National Energy Retail Law excludes our liability for any loss or damage you suffer as a result of the total or partial failure to supply Energy to your premises, which includes any loss or damage you suffer as a result of the defective supply of Energy.

12 Price for energy and other services

12.1 What are our tariffs and charges?

Our tariffs and charges for the sale of Energy to you under this contract are set out in your Energy Plan and the Energy Price Factsheet attached to this contract.

12.2 Variation of tariffs and charges

Unless we say we will not do so in your Energy Plan, we can vary the amount, nature and structure of any of the charges at any time by notice to you.

For example we may vary the structure of:

- your electricity usage charges from peak only charges to time of use charges; *or*
- any of the information we used in determining the charges for Energy is incorrect (such as your supply area or meter type)

The notice of variation may be by a message on your bill.

We will notify you:

- for Small Customers in Queensland, at least 10 Business Days before the variation where the charges are increasing; *and*
- otherwise, as soon as practicable, but no later than your next bill after the variation.

12.3 Changes to tariffs or type of tariff during a Billing Cycle

If the charges change during a Billing Cycle then we will calculate your bill for that period on a proportionate basis and we may use average usage data over a Billing Cycle

12 Price for energy and other services (cont'd)

(or other period depending on availability of meter data) (Average data) to do so.

Similarly, if your Energy Plan or any feature or benefit only applies for part of a Billing Period, then the impact on the charges will be pro-rated and we may use Average data to do so. For example, if a benefit includes a discount on usage charges which applies for 1 month, we will use average usage data over the Billing Period to determine the discounted amount.

12.4 GST

- a Amounts specified in the Market Offer Prices from time to time and other amounts payable under this contract may be stated to be exclusive or inclusive of GST.
- b Where an amount paid by you under this contract is payment for a "taxable supply" as defined for GST purposes, to the extent permitted by law, that payment will be increased so that the cost of the GST payable on the taxable supply is passed on to the recipient of that taxable supply.

13 Billing and payment

13.1 General

We will send a bill to you as soon as possible after the end of each Billing Cycle. We will send the bill:

- to you at the address nominated by you; or
- to a person authorised in writing by you to act on your behalf at the address specified by you.

13.2 Calculating the bill

Bills we send to you ('your bills') will be calculated on:

- the amount of Energy consumed at your premises during the Billing Cycle (using information obtained from reading your meter or otherwise in accordance with the (Rules); *and*
- the amount of fees and charges for any other services provided under this contract during the Billing Cycle; *and*
- the charges payable for services provided by your Distributor, including connection charges if you have asked for a new connection or connection alteration and have not made alternative arrangements with your Distributor.

13.3 Estimating the Energy usage

- a We may estimate the amount of Energy consumed at your premises if your meter cannot be read, if your metering data is not obtained (for example, if access to the meter is not given or the meter breaks down or is faulty), or if you otherwise consent.
- b If we estimate the amount of Energy consumed at your premises to calculate a bill, we must:
 - clearly state on the bill that it is based on an estimation; *and*
 - when your meter is later read, adjust your bill for the difference between the estimate and the Energy actually used.
- c If the later meter read shows that you have been undercharged, we will allow you to pay the undercharged amount in instalments, over the same period of time during which the meter was not read (if less than 12 months), or otherwise over 12 months.

13 Billing and payment *(cont'd)*

- d If the meter has not been read due to your actions, and you request us to replace the estimated bill with a bill based on an actual reading of the meter, we will comply with your request but may charge you any cost we incur in doing so.

13.4 Your historical billing information

Upon request, we must give you information about your billing history for the previous 2 years. However, we may charge you if we have already given you this information more than 4 times in the previous 12 months, or if you require information going back more than 2 years.

13.5 Your electricity (only) consumption information

Upon request, we must give you information about your electricity consumption for up to 2 years free of charge. However, we may charge you if:

- a we have already given you this information 4 times in the previous 12 months; *or*
- b the information requested is different in manner or form to any minimum requirements we are required to meet; *or*
- c the information is requested by a representative you have authorised to act on your behalf, and that request is part of a request the representative makes to us in relation to more than one Customer.

14 Paying your bill

14.1 What you must pay

You must pay to us the amount shown on each bill by the date for payment (the Pay-by Date) on the bill. The Pay-by Date will be no earlier than 13 Business Days from the date on which we issue your bill.

14.2 Issue of reminder notices

If you have not paid your bill by the Pay-by date, we will send you a reminder notice that payment is required. The reminder notice will give you a further due date for payment, which will be not less than 6 Business days after we issue the notice.

14.3 Difficulties in paying

a If you have difficulties paying your bill, you should contact us as soon as possible. We will provide you with information about payment options. If you are a Residential Customer and have told us that you have difficulty paying your bill, we must offer you the option of paying your bill under a payment plan.

However, we are not obliged to do so if you have had 2 payment plans cancelled due to non-payment in the previous 12 months or have been convicted of an offence involving the illegal use of Energy in the previous 2 years.

b Additional protections may be available to you under our Customer Hardship Policy and under the National Energy Retail Law and the Rules if you are a Customer experiencing payment difficulties due to hardship. A copy of our Customer Hardship Policy is available on our website.

14.4 Payment by Centrepay

If you receive Centrelink benefits, you may be eligible to pay your bill via Centrepay. This is a payment arrangement that allows you to transfer an amount you choose from your benefit that goes directly towards paying your Energy bill. If requested, subject to your eligibility, we can arrange for you to pay your bill via Centrepay.

15 Meters

15.1 Access to meters

You must allow us and our authorised representatives safe and unhindered access to your premises for the purposes of (where relevant):

- i. reading, testing, maintaining, inspecting or altering any metering installation at the premises; *and*
- ii. calculating or measuring Energy supplied or taken at the premises; *and*
- iii. checking the accuracy of metered consumption at the premises; *and*
- iv. replacing meters.

15.2 Your metering obligations

- take reasonable steps to limit any loss or damage you suffer in connection with this agreement;
- make sure the Energy infrastructure at your supply address is in good condition and not damaged in any way;
- allow only appropriately qualified and accredited people to carry out any work in connection with the Energy infrastructure;
- not tamper with or bypass your meter, or allow anyone else to do so; *and*
- not interfere with, disconnect, displace, remove or replace or damage the meter or the network system, or allow anyone else to do so.

15.3 Ownership of meter

You acknowledge that the meter is owned by a third party and title will not pass to you at any time.

15.4 Meter reading

We will use our best endeavours to ensure that a meter reading is carried out as frequently as is needed to prepare your bills, consistently with the metering rules and in any event at least once every 12 months.

15.5 Our metering obligations

If we or our representatives seek access to the premises under 15.1, we will:

- i. comply with all relevant requirements under the Energy Laws; *and*
- ii. carry or wear official identification; *and*
- iii. show the identification if requested.

15.6 Notice of replacement of meter

If we propose to replace your electricity meter we must give you a notice with the right to elect not to have your meter replaced unless:

- i. your meter is faulty, or sample testing indicates it may become faulty; *or*
- ii. you have requested or agreed to the replacement of your meter.

16 Interruption to electricity supply

16.1 Retailer may arrange Retailer Planned Interruptions (maintenance repair etc)

- a We may arrange Retailer Planned Interruptions to the supply of electricity to your premises where permitted under the Energy Laws for the purpose of the installation, maintenance, repair or replacement of your electricity meter;
- b If your electricity supply will be affected by a Retailer Planned Interruption arranged by us, we will give you at least 4 Business Days' notice by mail, letterbox drop, press advertisement or other appropriate means.

16.2 Your right to information about planned Interruptions

- a If you request us to do so, we will use our best endeavours to explain a Retailer Planned Interruption to the supply of electricity to the premises which was arranged by us.

16 Interruption to electricity supply (*cont'd*)

- b If you request an explanation be in writing we must, within 10 Business Days of receiving the request, give you 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 your Distributor, we may refer you to your Distributor to provide information.

17 Undercharging and overcharging

17.1 Undercharging

If we have undercharged you, we may recover the undercharged amount from you. If we recover an undercharged amount from you:

- we will not charge interest on the undercharged amount; *and*
- we will offer you time to pay the undercharged amount in instalments over the same period of time during which you were undercharged (if less than 12 months), or otherwise over 12 months.

The maximum amount we can recover from you is limited to the amount that has been undercharged in the 9 months immediately before we notify you, unless the undercharge is your fault, or results from your unlawful act or omission.

17.2 Overcharging

Where you have been overcharged by less than \$50, and you have already paid the overcharged amount, we must credit that amount to your next bill. Where you have been overcharged by \$50 or more, we must inform you within 10 Business Days of our becoming aware of the overcharge and, if you have already paid that amount, we must credit that amount to your next bill.

However, if you request otherwise, we will comply with that request under the following conditions:

- If you have stopped buying Energy from us, we will use our best endeavours to pay the overcharged amount to you within 10 Business Days.
- If you have been overcharged as a result of your own fault or unlawful act or omission, we may limit the amount we credit or pay you to the amount you were overcharged in the last 12 months.

Note for QLD Customers who have been overcharged:

We will inform you within 10 Business Days of our becoming aware of the overcharge and, if you have already paid that amount, we must organise for repayment of this amount to you within 20 Business Days.

17.3 Reviewing your bill

If you disagree with the amount you have been charged, you can ask us to review your bill in accordance with our standard complaints and dispute resolution procedures.

If you ask us to, we must arrange for a check of the meter reading or metering data or for a test of the meter in reviewing the bill. You will be liable for the cost of the check or test and we may request payment in advance.

However, if the meter or metering data proves to be faulty or incorrect, we must reimburse you for the amount paid.

Note for Victorian Customers: Customers in Victoria are not required to pay for a meter check or test in advance.

If your bill is being reviewed, you are still required to pay any other bills from us that are due for payment and the lesser of:

- the portion of the bill that you do not dispute; or
- an amount equal to the average of your bills in the last 12 months.

18 Security deposits

18.1 General

Depending on your creditworthiness we may ask you to pay us a Security Deposit and you must pay it to us.

If you are a Small Customer, we must pay you interest on the Security Deposit as required by the Energy Laws.

18.2 Use of Security Deposit

We may use your Security Deposit and any interest earned on it, to offset any amount you owe us under this Agreement:

- a if you fail to pay a bill by the Due Date; or
- b in relation to a final bill (i.e. a bill we issue when you vacate the premises or when you stop purchasing Energy from us at your premises or when you request that your premises be disconnected).

If we use your Security Deposit or any interest to offset amounts owed to us, we will let you know.

18.3 Return of security deposit

If we no longer need your Security Deposit, we are required to return it and any interest through a credit on your bill, or if you have closed your account, through our standard processes to refund account credits.

19 Disconnection of supply

19.1 When can we arrange for Disconnection?

Subject to us satisfying the requirements in the Rules, we may arrange for the Disconnection of your premises if:

- a you do not pay your bill by the Pay-by Date and, if you are a Residential Customer, you:
 - i. fail to comply with the terms of an agreed payment plan; or

- ii. do not agree to an offer to pay the bill by instalments, or having agreed, you fail to comply with the instalment arrangement;
- b you do not provide a Security Deposit we are entitled to require from you; *or*
- c you do not give access to your premises to read a meter (where relevant) for 3 consecutive meter reads; *or*
- d you fail to give us safe and unhindered access to the premises as required by *clause (15)* or any requirements under the Energy Laws; *or*
- e there has been illegal or fraudulent use of Energy at your premises in breach of *clause (21)* of this contract; *or*
- f we are otherwise entitled or required to do so under the Rules or by law.

19.2 Notice and warning of Disconnection

Before disconnecting your premises, we must comply with relevant warning notice requirements and other provisions in the Rules, and in relation to safe and unhindered access only, we must use our best endeavours to contact you, to arrange an appointment with you for access to your premises in addition to any warning notice. However, we are not required to provide a warning notice prior to Disconnection in certain circumstances (for example, where there has been illegal or fraudulent use of Energy at your premises or where there is an Emergency or health and safety issue)

19.3 When we must not arrange Disconnection

Your premises may not be disconnected during the following times ('the protected period'):

- on a Business Day before 8.00am or after 3.00pm; *or*
- on a Friday or the day before a public holiday; *or*
- on a weekend or a public holiday; *or*

19 Disconnection of supply (*cont'd*)

- on the days between 20 December and 31 December (both inclusive) in any year; *or*
- if you are being disconnected under *clause (19.1a)*, during an extreme weather event.

Your premises may be disconnected within the protected period:

- for reasons of health and safety; *or*
- in an Emergency; *or*
- as directed by a Relevant Authority; *or*
- if you request us to arrange Disconnection within the protected period; *or*
- if your premises contain a commercial business that only operates within the protected period and where access to the premises is necessary to effect Disconnection; *or*
- where the premises are not occupied.

20 Reconnection of supply

We must request your Distributor to reconnect your premises if, within 10 Business Days of your premises being disconnected:

- you ask us to arrange for reconnection of your premises; *and*
- you rectify the matter that led to the Disconnection; *and*
- you pay any reconnection charge.

We may terminate this contract 10 Business Days following Disconnection if you do not meet the above requirements.

21 Wrongful and illegal use of energy

You must not, and must take reasonable steps to ensure others do not:

- illegally use Energy supplied to your premises; or
- interfere or allow interference with any Energy equipment that is at your premises except as may be permitted by law; or
- use the Energy supplied to your premises or any Energy equipment in a manner that, unreasonably interferes with the connection or supply of Energy to another Customer; or
- causes damage or interference to any third party; or
- allow Energy purchased from us to be used other than in accordance with this contract and the Rules; or
- tamper with, or permit tampering with, any meters or associated equipment.

22 Notices

Notices under this contract must be sent in writing, unless this contract or the National Energy Retail Law and the Rules say otherwise. A notice sent under this contract is taken to have been received by you or by us (as relevant):

- on the date it is handed to the party, left at the party's premises (in your case) or one of our offices (in our case) or successfully faxed to the party (which occurs when the sender receives a transmission report to that effect); or
- on the date 2 Business Days after it is posted; or
- on the date of transmission (unless the sender receives notice that delivery did not occur or has been delayed) if sent electronically and the use of electronic communication has been agreed between us.

Our contact details for you to contact us or send us a notice are as set out in our bill to you, or as notified to you from time to time.

23 Privacy

We will comply with all relevant privacy legislation in relation to your personal information. You can find a summary of our privacy policy on our website. If you have any questions, you can contact our privacy officer.

24 Complaints and dispute resolution handling

24.1 Complaints

If you have a complaint relating to the sale of Energy by us to you, or this contract generally, you may lodge a complaint with us in accordance with our standard complaints and dispute resolution procedures.

Note: Our standard complaints and dispute resolution procedures are published on our website.

You can lodge a complaint by contacting us via email or telephone. Our contact details are set out in the 'contact us' section at the end of this contract.

24.2 Our obligations in handling complaints

If you make a complaint, we must respond to your complaint within the required timeframes set out in our standard complaints and dispute resolution procedures and inform you:

- a** of the outcome of your complaint and the reasons for our decision; *and*
- b** that if you are not satisfied with our response, you have a right to refer the complaint to the relevant Energy Ombudsman in your state. (see following page)

Energy and Water Ombudsman NSW:

- Mail* Reply Paid 86550,
Sydney South NSW 1234
- Online* [www.ewon.com.au/page/making-a-complaint/
complaint-form](http://www.ewon.com.au/page/making-a-complaint/complaint-form)
- Phone* 1800 246 545
- Email* complaints@ewon.com.au
- Web* www.ewon.com.au

Energy and Water Ombudsman Victoria:

- Mail* Reply Paid 469,
Melbourne VIC 8060
- Online* [www.ewov.com.au/complaints/online-complaint-
form](http://www.ewov.com.au/complaints/online-complaint-form)
- Phone* 1800 500 509
- Email* ewovinfo@ewov.com.au
- Web* www.ewov.com.au

Energy and Water Ombudsman Queensland:

- Mail* PO Box 3640,
South Brisbane BC QLD 4101
- Online* www.ewoq.com.au/submit-a-complaint
- Phone* 1800 662 837
- Email* info@ewoq.com.au
- Web* www.ewoq.com.au

Energy and Water Ombudsman South Australia:

- Mail* GPO Box 2947,
Adelaide SA 5001
- Online* www.ewosa.com.au/index.php/complaintform
- Phone* 1800 665 565
- Web* www.ewosa.com.au

25 Force Majeure

25.1 Effect of Force Majeure Event

If either party to this contract cannot meet an obligation under this contract because of an event outside the control of that party ('a Force Majeure Event'):

- the obligation, other than an obligation to pay money, is suspended to the extent it is affected by the Force Majeure Event for as long as the Force Majeure Event continues; *and*
- the affected party must use its best endeavours to give the other party prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which the affected party's obligations are affected and the steps being taken to remove, overcome or minimise those effects.

25.2 Deemed prompt notice

If the effects of a Force Majeure Event are widespread, we will be deemed to have given you prompt notice if we make the necessary information available by way of a 24-hour telephone service within 30 minutes of being advised of the event or otherwise as soon as practicable.

25.3 Obligation to overcome or minimise effect of Force Majeure Event

A party that claims a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

25.4 Settlement of industrial disputes

Nothing in this clause requires a party to settle an industrial dispute that constitutes a Force Majeure Event in any manner other than the manner preferred by that party.

26 Applicable law

The laws of the state or territory of your Supply Address apply to this Agreement. You agree to submit to the non-exclusive jurisdiction of the courts in that state or territory.

27 Retailer of Last Resort

If we are no longer entitled by law to sell Energy to you due to a Retailer of Last Resort (RoLR) event occurring in relation to us, we are required under the National Energy Retail Law and the Rules to provide relevant information (including your name, billing address and metering identifier) to the entity appointed as the relevant designated Retailer for the RoLR event and this contract will come to an end.

28 General

Some obligations placed on us under this contract may be carried out by another person. If an obligation is placed on us to do something under this contract, then:

- we are taken to have complied with the obligation if another person does it on our behalf; *and*
- if the obligation is not complied with, we are still liable to you for the failure to comply with this contract.

29 Amending this contract

We can vary this Agreement where:

- we give you 20 Business Days' notice of the variation; and
- you accept the change by not terminating the Agreement during that period.

We may also vary this Agreement by notice to you if we need to so because the Regulatory Requirements change.

30 Assignment or novation

You may not assign, transfer or novate this Agreement without our consent.

Subject to the Energy Laws, you agree we may:

- assign, transfer or novate this Agreement; *and/or*
- transfer you as a Customer, to any third party or as part of the transfer of a substantial number of our Customers to a third party. You will be notified of any assignment, transfer or novation.

Simplified explanation of terms

Acceptance Date means the date specified in the contract if a date is specified; or the later of

- the expiry of the 10 Business Day Cooling off period; *and either*
- the date we become the financially responsible Retailer for electricity used at your Supply Address; *or*
- the date we begin to supply electricity to your supply address.

Agreement means this contract as signed by the Parties;

Bill Issue Date means the date a bill is sent by Apex to a Small Customer;

Billing Cycle means the regular recurrent period for which you receive a bill from us;

Business Customer means a Customer that is not a Residential Customer;

Business Day means a day other than a Saturday, a Sunday or a public holiday;

Customer means a person who buys or wants to buy Energy from a Retailer;

Customer Connection Contract means a contract between you and your Distributor for the provision of Customer connection services;

Disconnection means an action to prevent the flow of Energy to the premises, but does not include an Interruption;

Distributor means the person who operates the system that connects your premises to the distribution network;

Emergency means an emergency due to the actual or imminent occurrence of an event that in any way endangers or threatens to endanger the safety or health of any person, or normal operation of the distribution system or transmission system, or that destroys or damages, or threatens to destroy or damage, any property;

Energy means electricity or gas;

Energy Laws means national and State and Territory laws and rules relating to Energy and the legal instruments made under those laws and rules;

Energy Plan has the meaning given in *clause (9)*;

Force Majeure Event means an event outside the control of a party;

GST has the meaning given in the GST Act (A New Tax System (Goods and Services Tax) Act 1999 (Cth));

Interruption means a temporary unavailability or temporary curtailment of the supply of electricity from a distribution system to a Customer, but does not include Disconnection;

Life Support Equipment has the meaning given in the Rules;

Market Offer Prices means tariffs and charges that we charge you for or in connection with the sale and supply of Energy. These are published on our website.

Simplified explanation of terms (cont'd)

National Energy Retail Law means the Law of that name that is applied by each participating State and Territory;

Parties has the meaning given in *clause (1)*.

Pay-by Date for a bill is the due date for that bill and will be no earlier than 13 Business Days from the Bill Issue Date;

Relevant Authority means any person or body who has the power under law to direct us, including the Australian Energy Market Operator and State or Federal Police;

Residential Customer means a person who purchases Energy principally for personal, household or domestic use at their premises;

Retailer means the financially responsible Retailer for the premises (where you have an existing connection) or the local area Retailer (where you do not have an existing connection) for your premises;

Retailer Planned Interruption means an Interruption that:

- a** is for the purposes of the installation, maintenance, repair or replacement of your electricity meter; and
- b** does not involve the Distributor effecting the Interruption; and
- c** is not an Interruption which has been planned by your Distributor.

RoLR event means an event that triggers the operation of the Retailer of Last Resort scheme under the National Energy Retail Law;

Rules means the National Energy Retail Rules made under the National Energy Retail Law:

Security Deposit means an amount of money paid to us as security against non-payment of a bill in accordance with the Rules;

Supply Address means the address nominated by you in the contract;

Supply Start Date means:

- the end of the cooling off period;
- the date your Supply Address transfers to us (for more details of the transfer process and why it may be after the Acceptance Date see *clause (4)*); or
- another date we agree with you.

Small Customer means:

- a Residential Customer; or
- a Business Customer who consumes Energy at or below a MWh per annum level determined under the National Energy Retail Law;
- In Queensland, New South Wales, South Australia and Australian Capital Territory, Small Customers are those using less than 100 MWh per year.
- In Tasmania Small Customers are those using less than 150 MWh per year.
- In VIC that you are a business Customer that uses less than 40 MWh of electricity per year.



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