


<b>Part A - Red Energy Electricity Supply Contract Schedule (Large Sites)</b>				
<b>Contract Number:</b>	WHT001	<i>This Schedule is to be read in conjunction with the Special Conditions and Part B - Terms and Conditions</i>		
<b>Contract Date:</b>				
<b>Customer</b>	Transport for NSW ABN: 18 804 239 602 Address: 231 Elizabeth Street Sydney NSW 2000  Contact: [REDACTED]  Tel: [REDACTED] Mob: [REDACTED] Fax: [REDACTED] Email: [REDACTED]	<b>Red Energy</b>	Red Energy Pty Limited ABN: 60 107 479 372 Address: 570 Church St, East Richmond, Vic 3121 Contact: [REDACTED]	
<b>Customer Billing Address</b>				
<b>Term</b>	[REDACTED]	<b>Large Site Cessation Date</b>	[REDACTED]	
<b>Commencement Date</b>	For each Large Site [REDACTED]  For each Small Site - the first occurring date from 1-Jan-24 that the Distributor has provided Red Energy with actual Meter Data from a scheduled meter read for that Site.  If the Distributor is unable to perform an actual meter read on the scheduled meter read date for a Small Site, Red Energy will promptly request the Distributor to perform a 'special meter read' (at the Customer's cost) in order to obtain the actual Meter Data for that Small Site to allow the Condition Precedent to be satisfied.	<b>Small Site Cessation Date</b>	For each Small Site - the first occurring date from the Large Site Cessation Date that the Distributor has provided Red Energy with actual Meter Data from a scheduled meter read for that Site.	
<b>Contract Expiry Date</b>	The date which is the last Site Cessation Date			
<b>Supply Addresses</b>				
See Part A - Annexure A				
<b>Payment Terms</b>	[REDACTED]	<b>By Electronic Funds Transfer</b>		
<b>Estimated Load</b>				
As listed in Part A - Annexure A				
<b>CHARGES - LARGE SITES</b>				
<b>Energy Charges</b>	Energy Charge = Energy Tariff x AELQ where: 'AELQ' is the 'Adjusted Energy Load Quantity', calculated as the aggregate of the Customer's load at each applicable NMI, grossed up by any applicable Distribution Loss Factors and Transmission Loss Factors for the relevant Month.			
The Large Sites Energy Charges applicable for: <ul style="list-style-type: none"> <li>(a) consumption up to and including the [REDACTED] specified in this Part A;</li> <li>(b) consumption in excess of the [REDACTED] determined in accordance with cl 5.1 of Part B - Terms and Conditions; or</li> <li>(c) consumption after the Large Sites Cessation Date for a Supply Address are determined in accordance with cl 5.2 of Part B - Terms and Conditions.</li> </ul>				
<b>Energy Tariffs</b>				
<b>New South Wales</b>				
		<b>Peak</b>	<b>Shoulder</b>	<b>Off Peak</b>
		\$/MWh	\$/MWh	\$/MWh
		[REDACTED]	[REDACTED]	[REDACTED]
		Energy Charge to be calculated in accordance with Clause 2.1 of Part A Annexure B	Energy Charge to be calculated in accordance with Clause 2.1 of Part A Annexure B	Energy Charge to be calculated in accordance with Clause 2.1 of Part A Annexure B
<b>Time period definitions</b>				
<i>In respect of the above Energy Tariffs:</i>  "Peak" means: (a) in respect of New South Wales or the Australian Capital Territory, each time period of 7am to 9am, and 5pm to 8pm Australian Eastern Standard Time (not summer time adjusted) Monday to Friday except for any public holiday in the State of New South Wales appointed under the Public Holidays Act 2010 (NSW) or the Australian Capital Territory appointed under the Holidays Act 1958 (ACT); (b) in respect of Victoria, each time period of 7am to 11pm Australian Eastern Standard Time (not summer time adjusted) Monday to Friday (including, for the avoidance of doubt, any Monday to Friday which may be appointed a public holiday under the Public Holidays Act 1993 (Vic)); (c) in respect of South Australia, each time period of 7am to 9pm Australian Central Standard Time (not summer time adjusted) Monday to Friday except for any public holiday in the State of South Australia appointed under the Holidays Act 1910 (SA); or (d) in respect of Queensland, each time period of 7am to 10pm Australian Eastern Standard Time (not summer time adjusted) Monday to Friday except for any public holiday in the State of Queensland appointed under the Holidays Act 1983 (Qld).  "Shoulder" in respect of New South Wales or the Australian Capital Territory, means each time period of 9am to 5pm and 8pm to 10pm Australian Eastern Standard Time (not summer time adjusted) Monday to Friday, except for any public holiday in the State of New South Wales appointed under the Public Holidays Act 2010 (NSW) or the Australian Capital Territory appointed under the Holidays Act 1958 (ACT).  "Off-Peak" means: (a) in respect of New South Wales and the Australian Capital Territory, any time period which is not a Peak or Shoulder time period; or (b) in respect of Victoria, South Australia and Queensland, any time period which is not a Peak time period.				

<b>Embedded Network</b>	
<b>Service Fee</b>	
<b>Other Charges and Fees</b>	

(1) Subject to paragraph (2) below, each Green Charge (in \$) (other than IREC Charge and PRC Amount) is calculated as the Certificate Price x ARELQ x M, where:

(a) 'Certificate Price' is the applicable certificate price (as specified below) for the relevant Green Charge and Contract Year;  
 (b) 'ARELQ' is the 'Adjusted Renewable Energy Load Quantity', being the aggregate of the Customer's loads (in MWh) at each Site (for the LREC Amount or SREC Amount), each Victorian Site (for the VEEC Amount), each NSW Site (for the ESS Amount), or each ACT Site (for the ACT ESC Amount), with each such aggregate load (except for the ACT Site load) being grossed up by the applicable Distribution Loss Factors for the relevant Month; and  
 (c) 'M' is the relevant binding percentage multiplier (expressed as a %) for the applicable calendar year, being the Renewable Power Percentage as declared under s39 of the Renewable Energy (Electricity) Act 2000 (Cth) and any applicable regulation (with respect to the LREC Amount), the Small-Scale Technology Percentage as declared under s40A of the Renewable Energy (Electricity) Act 2000 (Cth) and any applicable regulation (with respect to the SREC Amount), the Greenhouse Gas Reduction Rate for electricity as declared by an Order in Council under section 32 of the Victorian Energy Efficiency Target Act 2007 (Vic) (with respect to the VEEC Amount), the Retailer Compliance Obligation for electricity as declared by IPART under the Electricity Supply Act 1995 (NSW) and published at [http://www.ess.nsw.gov.au/For\\_Liable\\_Entities/Targets](http://www.ess.nsw.gov.au/For_Liable_Entities/Targets) (with respect to the ESS Amount), or the product of the 'energy savings target' and 'emissions factor' as declared under the Energy Efficiency (Cost of Living) Improvement Act 2012 (ACT) (with respect to the ACT ESC Amount).

(2) If, at any time:

(a) a binding percentage multiplier has not been declared, then the most recently declared applicable non-binding estimated percentage multiplier at that time will be used for the purposes of the applicable Green Charge calculation until the binding percentage multiplier is declared; or  
 (b) neither a binding nor non-binding estimated percentage multiplier has been declared, a reasonable estimate of the percentage multiplier as specified by Red Energy will be used until such binding percentage multiplier is declared.

Upon the last binding percentage multiplier of all the Green Charges payable under this Contract being declared, all applicable Green Charges payable by the Customer for the Contract Year to date will be recalculated, and any reconciliations required to be made will be reflected in a subsequent bill issued to the Customer either as an additional amount which is payable by the Customer (in respect of any undercharge), or as a credit on the Customer's account (in respect of any overcharge).

(3) The IREC Charge is calculated by reference to Clause 9.1 of Part B of this Contract.

<b>LREC Amount</b> <small>(% estimates provided pursuant to Green Charges section above)</small>	Certificate Price (\$)	%
	(firm)	(estimate)
		RPP Only

<b>IREC Amount</b>	Certificate Price (\$)	%
	(firm)	(estimate)
		1-RPP Only

<b>SREC Amount</b> <small>(% estimates provided pursuant to Green Charges section above)</small>	Certificate Price (\$)	%
	(firm)	(estimate)

<b>ESS Amount</b> <small>(% estimates provided pursuant to Green Charges section above)</small>	Certificate Price (\$)	%
	(firm)	(estimate)

<b>PRC Amount</b> <small>(% estimates provided pursuant to Green Charges section above)</small>	Certificate Price (\$)	%
	(firm)	(estimate)

<b>Energy Losses</b>	Pass through
<b>Network Charges</b>	Pass through
<b>Metering</b>	Pass through
<b>Market Fees</b>	Pass through

For the Large Sites, Red Energy will pass through the following charges at direct cost ie. at the charges levied on Red Energy by the relevant party without any markup:

- Energy Losses at the applicable Distribution Loss Factors and Transmission Loss Factors for the relevant Month;
- Network Charges levied by the Distributor on Red Energy for the Supply Addresses;
- any Metering Charges including installation of meters, ongoing meter maintenance fees, meter reading fees, and testing of meters, current transformers or voltage transformers as required under the National Electricity Rules; and
- Market Fees levied by AEMO applicable to the Supply (including general fees, market customer allocated fees, FRC establishment and FRC operations fees, national transmission planner fees, national smart metering and electricity advocacy panel fees as published by AEMO and Ancillary Service Charges), calculated on a proportionate and reasonable basis.

Following the occurrence of a Market Change, the applicable charges will be varied in accordance with cl 4(3) of Part B - Terms and Conditions.

It is agreed that:

- (1) the following documents comprise the contract between Red Energy and the Customer (the Contract):
  - (b) this Part A - Red Energy Electricity Supply Contract Schedule; Annexure A - Site List and Estimated Load; Annexure B - Progressive Purchase;
  - (c) Part B - Electricity Supply Contract Terms and Conditions;
- (2) despite any other provision in the Contract, if there is any inconsistency or conflict between the documents comprising the Contract, the order of precedence in paragraph (1) above applies to the extent of any such inconsistency or conflict; and
- (3) each party has read the Contract in full and agrees to its terms.

Executed as an agreement:

<b>Customer</b>	<b>Red Energy</b>
Signature of Director / Secretary	
Print Name	
Title	
Date	Date
05 December 2023   17:37 AEDT	05 December 2023   17:00 AEDT

Part A, Appendix 1 - Co Efficients		
Period	Peak (inc Shoulder)	Off Peak

**Part A, Annexure A - Site List and Estimated Load**

Estimated Load	
Period	MWh pa

Site List Large			
NM	Site Address		Additional Description
TBA			Western Harbour Tunnel
TBA			Western Harbour Tunnel
TBA			Western Harbour Tunnel
TBA			Western Harbour Tunnel



## WHT001 Part A Annexure B Energy Charge

### 1. DEFINITIONS AND INTERPRETATION

Unless expressed to the contrary, a clause reference in this **Annexure B** is a reference to the corresponding clause in this **Annexure B**, and defined terms have the following meanings:

- (2) **"Distribution Loss Factor"** has the meaning given to that term in the National Electricity Rules.
- (3) **"Energy Charge"** means the energy charge (in dollars per megawatt-hour and exclusive of Losses) which is payable by the Customer in respect of its consumption of electricity under this Contract.
- (4) **"Estimated Load"** is as defined in **Part B** of this Contract.
- (5) **"Losses"** means the applicable Distribution Loss Factors and Transmission Loss Factors, as determined by AEMO.
- (6) **"National Electricity Rules"** is as defined in **Part B** of this Contract.
- (7) **"Off-Peak"** means any time period which is not a Peak or Shoulder time period.
- (8) **"Peak"** has the meaning given to that term in **Part A**.

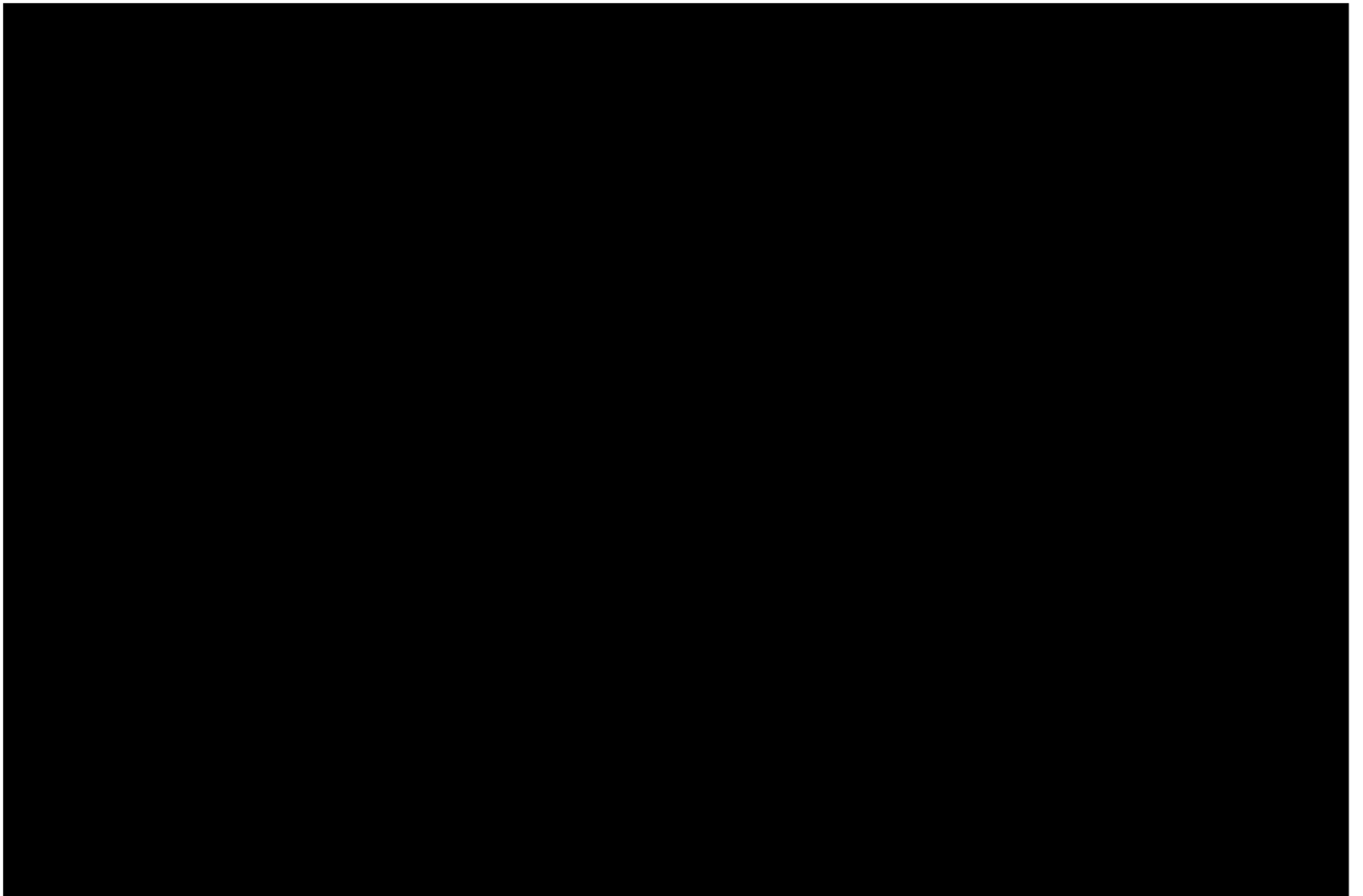
- (11) **"Shoulder"** has the meaning given to that term in **Part A**.
- (12) **"WHT001"** means Western Harbour Tunnel contract.
- (13) **"Transmission Loss Factor"** has the same meaning that the term "intra-regional loss factor" has in the National Electricity Rules.

If the date on or by which any act must be done under this **Schedule Annexure B** is not a Business Day, the act must be done on or by the next Business Day.

### 2. ENERGY CHARGES



**WHT001 Part A Annexure B Energy Charge**



RED ENERGY TERMS



# PART B – ELECTRICITY SUPPLY CONTRACT TERMS AND CONDITIONS

## 1. SUPPLY & SALE OF ELECTRICITY

(1) On and subject to the terms and conditions of this Contract, Red Energy will Supply and sell to the Customer, and the Customer must purchase from Red Energy, all electricity in respect of each Supply Address from the Commencement Date to that Supply Address's Site Cessation Date, subject to **clauses 1(3), 2(1) and 16**.

(1A) Red Energy will allocate Relevant Certificates for the purposes of energy Supplied to the Customer in accordance with this Contract.

(3) Red Energy's obligation to Supply and sell electricity to the Customer in **clause 1(1)** at a Supply Address is subject to the following conditions precedent:

(a) Metering Equipment is installed at the Supply Address, if required; and

(b) Red Energy becomes "financially responsible" for the NMI at the Supply Address in accordance with the National Electricity Law,

(each a "**Condition Precedent**").

(4) In respect of the Condition Precedent in **clause 1(3)(b)**:

(a) the Customer must use reasonable endeavours to procure that the incumbent retailer in respect of each Supply Address provides all assistance reasonably required by Red Energy to enable such Condition Precedent to be satisfied; and

(b) the parties acknowledge and agree that, in respect of the Small Basic Sites, such Condition Precedent may only be satisfied following the first occurring date from the Commencement Date that the Distributor has provided Red Energy with actual Meter Data from a scheduled meter read for that Site. If the Distributor is unable to perform an actual meter read on the scheduled meter read date, Red Energy will promptly request the Distributor to perform a 'special meter read' (at the Customer's cost) in order to obtain the actual Meter Data for that Small Site to allow the Condition Precedent to be satisfied.

(5) No later than 5 Business Days after the date of this Contract, the Customer must notify Red Energy if any Supply Address has, or is likely to have, an embedded electricity network associated with it, and provide Red Energy in writing with details relevant to Red Energy (as the Customer's electricity retailer), including but not limited to:

(a) details of 'parent' and 'child' NMIs;

(b) key dates and timeframes; and

(c) any other information as reasonably requested by Red Energy.

The Customer must update such information from time to time in writing to Red Energy as soon as reasonably practicable after any changes occur, provided that in respect of any additional planned embedded network or expansion to an existing network such information must be provided to Red Energy no later than 30 days prior to the establishment or expansion of that embedded network.

## 2. EXPIRATION & RENEWAL

(1) A Supply Address will be subject to the terms of this Contract until the earlier of the commencement date of any new supply agreement between the Customer and Red Energy for that Supply Address, or the date another electricity retailer becomes "financially responsible" for that Supply Address in accordance with the National Electricity Law.

(2) Prior to the Large Site Cessation Date (as extended under clause 2(2)), Red Energy may offer to extend this Contract for an Extended Term subject to the terms and conditions set out in that offer including any applicable new charges ("**Renewal Offer**"). If Red Energy makes any such Renewal Offer, the

## WHT001 Part B Red Energy Electricity Supply Contract Terms and Conditions



Customer must accept or reject that Renewal Offer by notifying Red Energy of its decision in writing by the Large Site Cessation Date, otherwise the Renewal Offer will be deemed to be rejected by the Customer and the terms of **clause 2(3)** will be applicable.

- (3) For any period that Red Energy remains “financially responsible” for a Supply Address after that Supply Address’s Site Cessation Date, and (if applicable) a Renewal Offer had not been accepted by the Customer in accordance with **clause 2(2)**, the Default Charges will be applicable in respect of the Supply to that Supply Address.

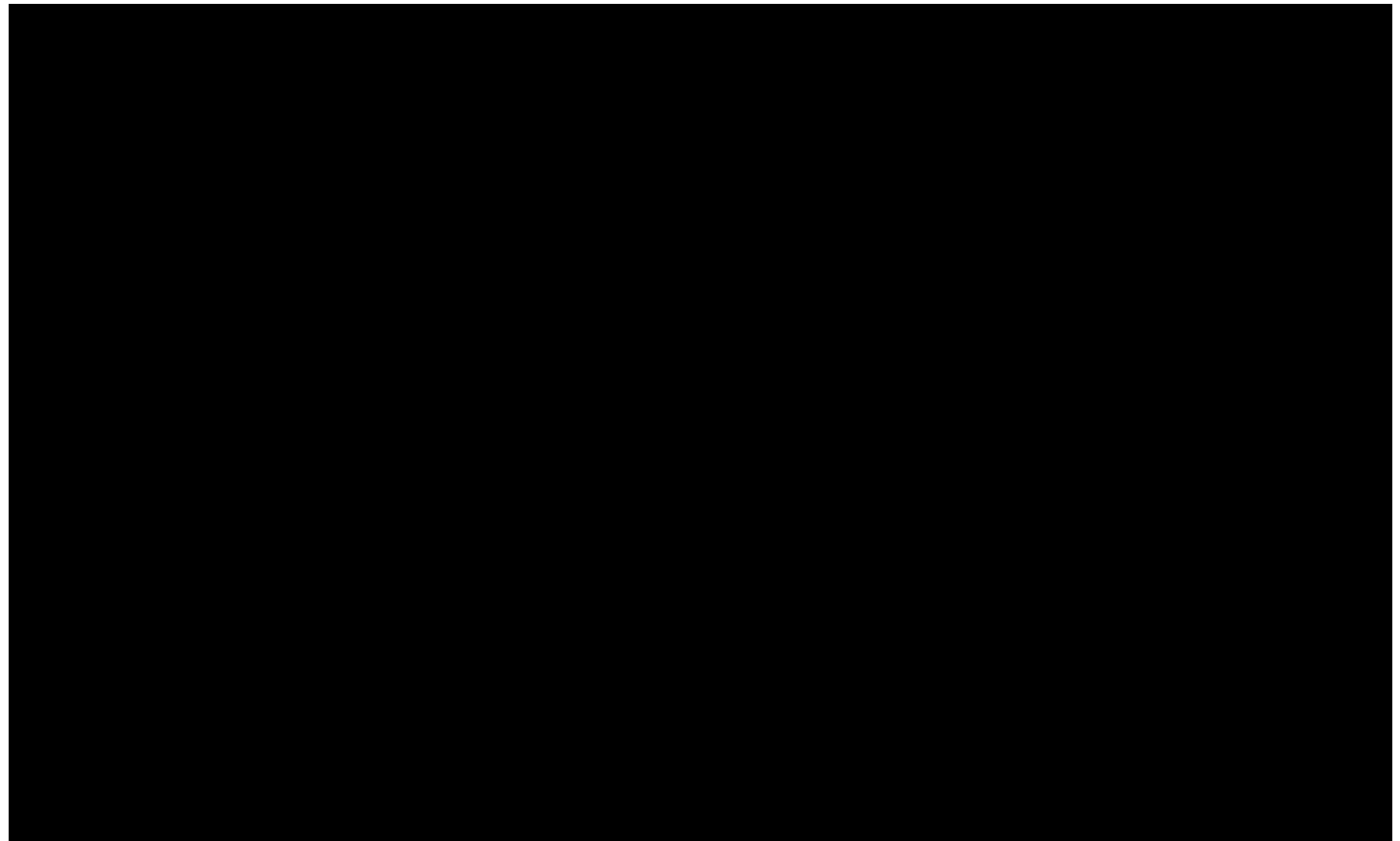
### 3. AGGREGATION OF SITE CONSUMPTION

The Customer acknowledges that:

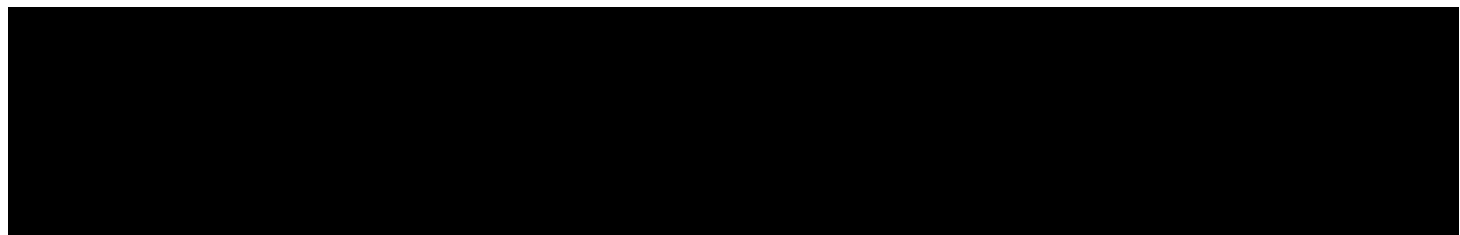
- (1) if it would otherwise be a “small customer” (for the purposes of the National Energy Retail Rules) in relation to at least one of those Supply Addresses; and
- (2) the aggregate of the actual or estimated annual electricity consumption level for those Supply Addresses is higher than the upper consumption threshold prescribed by the relevant National Energy Retail Law regulations,

then the Customer gives its explicit informed consent to allow Red Energy to treat those Supply Addresses as aggregated for the purpose of determining its actual or estimated annual electricity consumption level, so that Division 3, Part 1 and Part 2 of the National Energy Retail Rules do not apply to Red Energy’s relationship with the Customer in respect of those Supply Addresses.

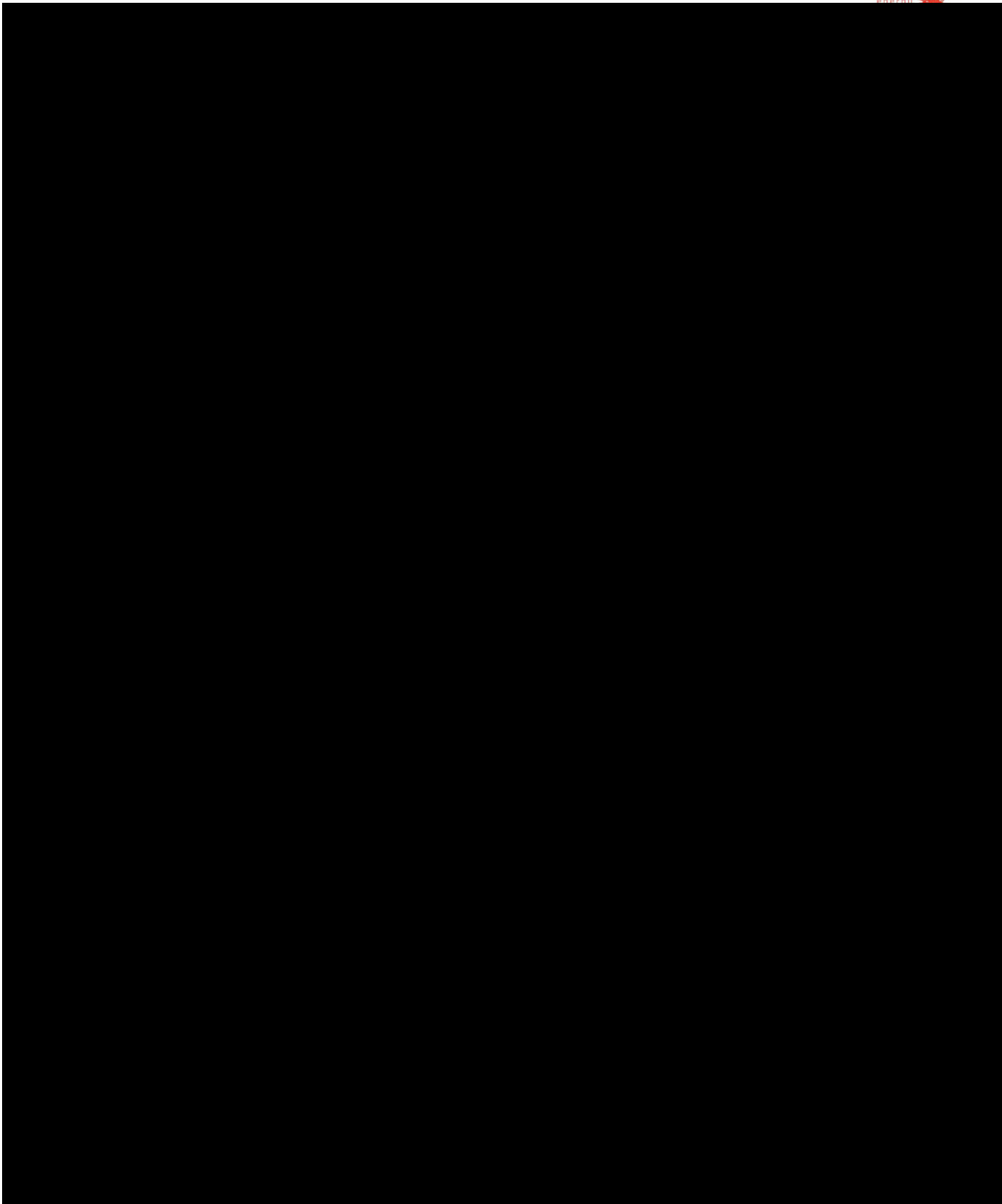
### 4. CHARGES



### 5. ENERGY CHARGE VARIATIONS



**WHT001 Part B Red Energy Electricity Supply Contract Terms and Conditions**



**5.2 Applicable Energy Charge for supply outside Contract Expiry Date**

If Red Energy supplies electricity to the Customer to a Large Site Supply Address outside the Contract Expiry Date, then for the period from the Contract Expiry Date to the date on which Customer arranges for another

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retailer to become “financially responsible” for that Supply Address, the Energy Charge component of the Default Charges applicable to that load for each Calculation Period will be calculated in accordance with the formula in **clause 5.1(1)**, except that:

N = the first Calculation Period after the Contract Expiry Date

L = the last Calculation Period prior to the date and time another retailer becomes “financially responsible” for that Supply Address

**6. CHANGE TO NUMBER OF SUPPLY ADDRESSES**

- (1) The Customer may provide Red Energy with written notice that it wishes to add a Supply Address through which it receives electricity from Red Energy.
- (2) If Red Energy receives a notice under **clause 6(1)**, it must supply electricity through, and must become financially responsible for, that Supply Address:
  - (a) if the Supply Address is a Large Site, within 30 days of receiving the notice under **clause 6(1)**; or
  - (b) if the Supply Address is a Small Site, on and from the first-occurring date from the date of the notice under **clause 6(1)** that the Distributor has provided Red Energy with actual Meter Data from a scheduled meter read for that Supply Address,

provided that the Supply Address meets Red Energy's technical requirements (if any) and subject to the Supply Address being transferred to Red Energy in the National Electricity Market. For the avoidance of doubt, Red Energy will not be in breach of its obligations under this **clause 6(2)** to the extent that a delay in Red Energy being able to supply electricity to any such Supply Address was caused by the Customer's incumbent electricity retailer (if applicable) or the Customer.
- (3) If Red Energy supplies electricity through a new Supply Address pursuant to **clause 6(2)**, this Contract is automatically amended to include that new Supply Address.
- (4) The Customer may provide Red Energy with written notice that it no longer wishes to receive electricity at a Supply Address, provided that the reason for such request is that the Customer will not be requiring electricity permanently at that Supply Address.
- (5) If Red Energy receives a notice under **clause 6(4)**, it must arrange for disconnection of that Supply Address within 30 days of receiving the notice under **clause 6(4)**, provided that the Customer:
  - (a) in respect of a Small Site disconnection only, will be liable for the direct cost of the ‘final’ meter read and Disconnection Fee associated with such disconnection; and
  - (b) in respect of a Small or Large Site disconnection, remains liable for any electricity consumed through the Supply Address until that Supply Address is disconnected.
- (6) On the date of disconnection of any Supply Address under **clause 6(5)**, this Contract is automatically amended to remove that Supply Address.
- (7) Requests under **clause 6(1)** and **clause 6(4)** are unlimited.

**7. BILLING AND PAYMENT**

- (1) Red Energy will issue bills to the Customer on a NMI-by-NMI basis for the Charges incurred by the Customer, with such bills to be posted to the Customer's Billing Address. Red Energy agrees to provide invoicing data of each bill in a consistent electronic file format containing specified information, to be agreed between the parties.

- (3) Subject to **clause 7(5)**, the Customer must pay Red Energy in accordance with the Payment Terms:
  - (a) the total amount shown on each invoice issued by Red Energy without any deduction, reduction and without withholding any amount;

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- (b) using any of the payment methods set out in **Part A** or as otherwise agreed in writing; and
- (c) any costs, charges and fees incurred by Red Energy in connection with any payment made by the Customer that is subsequently dishonoured for any reason.

The parties agree that the amounts paid by the Customer in respect of any electricity bill from time to time will be allocated towards payment of the Charges for Supply to the Sites in the following order of precedence (as applicable): (a) Small Sites; and (b) Large Sites.

- (5) If the Customer reasonably believes that an amount on an electricity bill provided by Red Energy in respect of a Supply Address is incorrect, then prior to the due date specified on the relevant bill the Customer may notify Red Energy in writing and request a review of the Charges on that electricity bill ("**Review Request**"). Once a Review Request is made, the Customer is not required to pay the electricity bill that is subject to the Review Request. Within a reasonable timeframe of receipt of a Review Request, Red Energy will review the Charges on the relevant electricity bill at no charge to the Customer. If Red Energy reviews a Customer electricity bill the subject of a Review Request and the Charges on that electricity bill are found to be, as determined by Red Energy acting reasonably:
- (a) correct, the Customer must pay Red Energy:
    - (i) the unpaid amount; and
    - (ii) (if applicable and if requested by Red Energy) interest, compounded daily, at the Default Interest Rate on the unpaid amount, from the due date specified on the relevant bill to the date that payment is made,

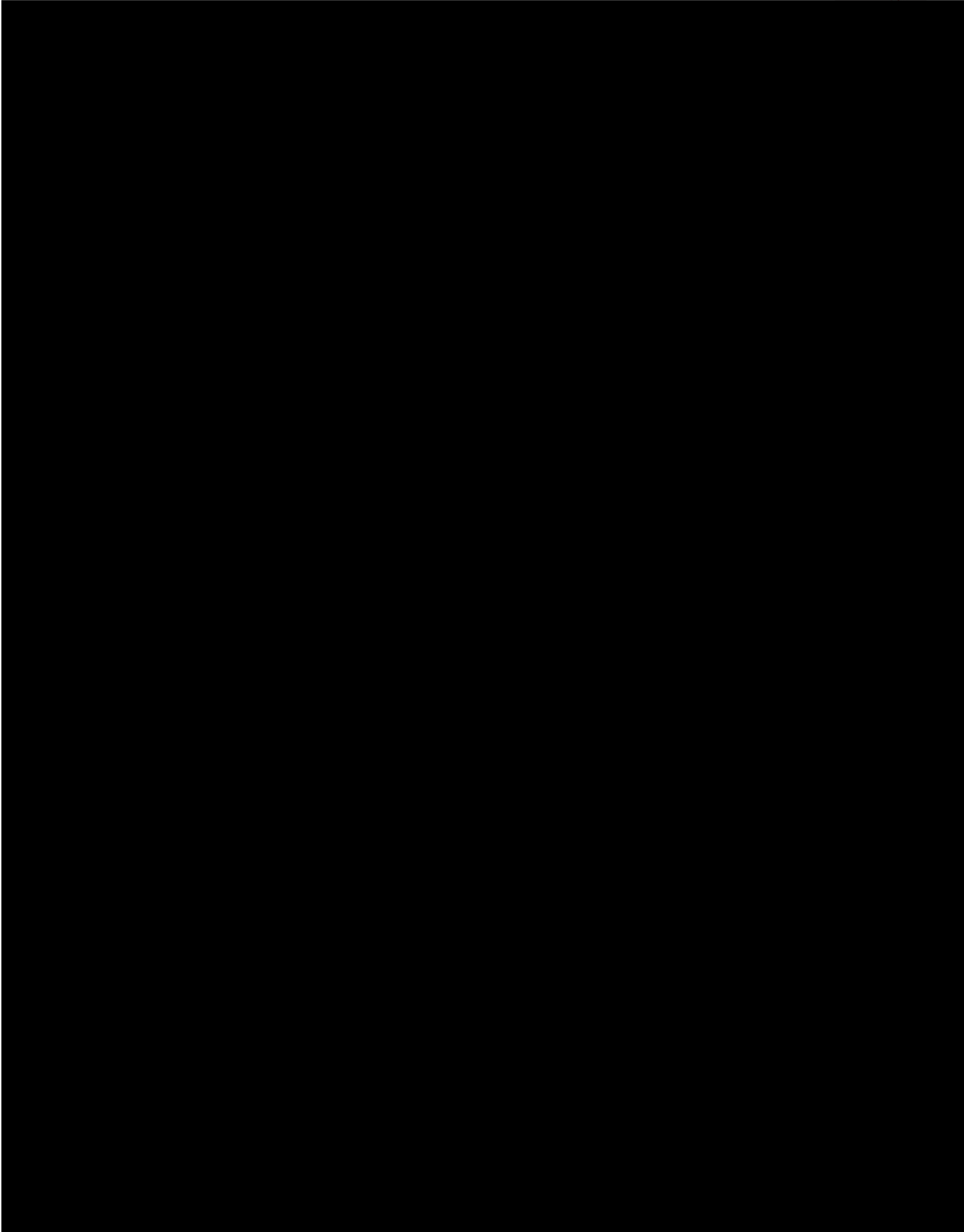
by the due date or within 3 Business Days of Red Energy providing the Customer with notification of Red Energy's decision, whichever is the later; or
  - (b) incorrect, Red Energy will issue the Customer with a revised electricity bill or an adjustment on the next bill, which will include the relevant amended amount that is either payable by the Customer or to be credited by Red Energy to the Customer's account (as the case may be) and, if applicable, a revised payment due date.

For the avoidance of doubt, this **clause 7(5)** only applies where a single tax invoice is issued for a Supply Address and not where a consolidated invoice is issued for multiple Supply Addresses.

- (6) If Red Energy becomes aware that the Customer has been overcharged or undercharged in respect of an electricity bill issued to the Customer, Red Energy will:
- (a) notify the Customer within 10 Business Days of discovering the error; and
  - (b) reflect the correction of the undercharge or overcharge, as the case may be, on the next electricity bill issued by Red Energy by way of a further payment required by the Customer or in the form of a credit.
- (7) Red Energy agrees that it will limit the amount to be recovered under **clause 7(6)** to the amount undercharged in the 12 months before the date that Red Energy identifies the undercharging for Charges that are under the direct control of Red Energy (or any contractors or subcontractors of Red Energy). For the avoidance of doubt, this **clause 7(7)** will not apply to Charges or components of Charges which are not under the control of Red Energy (or any contractors or subcontractors of Red Energy), including (without limitation) retrospective tariff changes, incorrect CT ratios, or revisions of Meter Data in each case that are not under the control of Red Energy (or any contractors or subcontractors of Red Energy).

**8. NOT USED**

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**10. NOT USED**

**11. GOODS AND SERVICES TAX**

- (1) In this **clause 11**, “**GST Law**” has the meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* and except for defined terms, capitalised expressions have the same meaning as in the GST Law.
- (2) Unless otherwise expressly stated, any amounts payable or any form of consideration to be provided for a Supply made under this Contract are exclusive of GST (“**GST Exclusive Amount**”). If GST is payable by any party making a Taxable Supply (“**Supplier**”) under this Contract, the Recipient must, subject to the prior receipt of a Tax Invoice, pay to the Supplier an amount equal to the GST payable on the Taxable Supply in addition to the GST Exclusive Amount or other consideration otherwise payable for the Supply.
- (3) The Supplier must issue a Tax Invoice to the Recipient in respect of any Taxable Supply made under this Contract before the Consideration for the Supply is due.
- (4) If at any time an Adjustment Event arises in respect of a Taxable Supply made by the Supplier under this Contract, the Supplier must provide the Recipient with an Adjustment Note for the Adjustment immediately upon becoming aware of the Adjustment. Where an Adjustment Event requires that a payment be made by the Supplier to the Recipient, or the Recipient to the Supplier, as the case may be, the payment must be made within 10 Business Days from the date of issue of the Adjustment Note.
- (5) Where a party is required under this Contract to pay for or reimburse a cost, expense or outgoing of another party, the amount to be paid by the first party is the sum of:
  - (a) the amount of the cost, expense or outgoing less any Input Tax Credits in respect of the cost, expense or outgoing to which the other party (or the Representative Member of a GST Group of which the other party is a Member) is entitled; and
  - (b) if the payment by the first party is Consideration for a Taxable Supply: an amount equal to the GST payable by the other party in respect of that Consideration.

**12. SUPPLY UNRELIABLE AND NOT GUARANTEED**

- (1) The Customer acknowledges and agrees that:
  - (a) as an electricity retailer, the quality, frequency, voltage and continuity of Supply of electricity by Red Energy to each Supply Address is subject to a variety of factors which are outside of Red Energy's control;
  - (b) except as required by Law, Red Energy does not guarantee to the Customer, and makes no representation of, the quality, frequency or continuity of Supply of electricity to any Supply Address at any point in time; and
  - (c) it takes and consumes electricity Supply at each Supply Address at its own risk.
- (2) Except as required by Law, Red Energy does not make any representations or warranties to the Customer regarding the quality or the frequency of electricity Supplied to the Customer at any Supply Address, interruptions and fluctuations to the flow of electricity at any Supply Address or the occurrence of any power surges or dips in electricity Supply at any Supply Address. The Customer must take all reasonable precautions to minimise the risk of loss or damage to any equipment, property or business

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which may result from any of the factors set out in this **clause 12(2)** including in connection with the Supply of poor quality electricity or the unreliability of electricity Supply.

**13. THE DISTRIBUTOR**

- (1) The Customer must at all times comply with all requests, instructions and directions provided by the Distributor in respect of, and any agreements and arrangements it has in place with the Distributor that in any way relates to, the Supply of electricity to each Supply Address.
- (2) If the Customer:
  - (a) varies a Deemed Distribution Agreement by agreement in writing with the Distributor; or
  - (b) enters into a separate written agreement with the Distributor in relation to the Supply of electricity to a Supply Address that replaces a Deemed Distribution Agreement,
 

(“**Varied Distribution Agreement**”), then the Customer must promptly notify Red Energy in writing and provide Red Energy with a copy of the Varied Distribution Agreement, and the parties must promptly negotiate in good faith to vary this Contract to ensure consistency with the Varied Distribution Agreement.

**14. METERING**

- (1) Unless otherwise agreed with the Customer and subject to **clause 14(7)**, Red Energy will, at the Customer’s expense, arrange the appointment of the Metering Data Provider and the Metering Provider (if applicable), the installation (if required) and maintenance of the Metering Equipment and the reading and collation of the Meter Data in accordance with the National Electricity Rules.
- (2) The Customer must at all times comply with all requests, instructions and directions provided by the Distributor or Metering Data Provider and Metering Provider (as the case may be) in respect of Metering Equipment at a Supply Address.
- (3) The Customer acknowledges and agrees that any Metering Equipment:
  - (a) is not owned, operated or controlled by Red Energy and Red Energy does not warrant or make any representation to the Customer regarding the adequacy, safety or other characteristics of the Metering Equipment or installation of that Metering Equipment; and
  - (b) remains the property of the person supplying it.
- (4) The Customer must keep the Metering Equipment clear of all hazards and interference, only use the Metering Equipment for its intended use, not tamper with, interfere with, modify, remove or damage the Metering Equipment in any way and at all times keep the Metering Equipment and any ancillary equipment and connections in good condition and repair. If any Metering Equipment is destroyed, damaged or lost (other than due to the fault of Red Energy), the Customer must fully pay for its replacement or repair.
- (5) The Customer acknowledges that the Distributor or Metering Provider (as the case may be) may, in accordance with the National Electricity Law, upgrade, maintain or replace the Metering Equipment (“**Metering Equipment Works**”) on a Site. Such Metering Equipment Works will be performed at the Customer’s cost, and the Customer may be required to provide all reasonable assistance as may be required by the Distributor or Metering Provider for the purposes of those works.
- (6) If the party who has not entered into the metering services agreement with the Distributor or Metering Provider at a Supply Address becomes aware or reasonably suspects that the Metering Equipment at that Supply Address is, or may be, defective, damaged or operating inaccurately, it must immediately notify the other party and may request that the other party arrange an inspection and calibration of the Metering Equipment (“**Calibration Request**”). Within a reasonable timeframe of receipt of a Calibration Request, that other party must arrange for an inspection and calibration of the Metering Equipment at the relevant Supply Address. If an inspection and calibration of the Metering Equipment is carried out and the Metering Equipment is found to be recording the electricity consumption at the Supply Address:
  - (a) correctly, the party making the Calibration Request must pay the other party:
    - (i) (if the other party is Red Energy and this clause is applicable), the unpaid amount of the electricity bill disputed (if any) plus (if requested by Red Energy) interest, compounded daily, at the Default Interest Rate on any such unpaid amount, from the due date specified on the relevant bill to the date that payment is made; and

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- (ii) the cost of the Metering Equipment calibration test, within 10 Business Days of receipt of a notice provided by the other party informing that party of the results of the calibration of the Metering Equipment and attaching a tax invoice requesting payment by that party; or
  - (b) incorrectly:
    - (i) the other party will bear the cost of the Metering Equipment calibration test; and
    - (ii) Red Energy will issue the Customer with a revised electricity bill, which will include the relevant adjusted amount payable by the Customer and a revised payment due date.
- (7) The Customer must at all reasonable times allow Red Energy and its Representatives, the Distributor, Metering Data Provider, Metering Co-ordinator or Metering Provider (as the case may be) safe, unrestricted and convenient access to each Supply Address for the purposes of:
  - (a) reading and inspecting the Metering Equipment;
  - (b) installing, connecting, disconnecting or reconnecting the Metering Equipment or the electricity Supply at the Supply Address; or
  - (c) for any other purpose required under or in connection with this Contract.

Each Representative of Red Energy will at all times carry or wear official identification and produce that identification upon the Customer's reasonable request.
- (8) Red Energy acknowledges that the Customer has entered or will enter into metering services agreements with the Metering Provider and/or Metering Data Agent and that metering and data collection services under this Contract will be performed under those agreements, and:
  - (a) the Customer will notify Red Energy within a reasonable time of the agreements with the Metering Provider and/or Metering Data Agent including the service provider;
  - (b) the Customer acknowledges that Red Energy will enter into an agreement with the Metering Provider and/or Metering Data Agent to ensure its obligations as the "responsible person" and "financially responsible Market Participant" are met;
  - (c) the Customer must, and must procure that the Metering Provider and/or Metering Data Agent from time to time, provide Red Energy with timely information and assistance, and as reasonably requested from time to time by Red Energy, to enable Red Energy to comply with its obligations as the "responsible person" and "financially responsible Market Participant" under the National Electricity Rules;
  - (d) the Customer must procure that the Metering Provider and/or Metering Data Agent:
    - (i) comply with the obligations applicable to a "Metering Provider" and/or "Metering Data Agent" (as applicable) under the National Electricity Rules (including without limitation the requirements in respect of registration, accreditation and/or appointment); and
    - (ii) perform relevant obligations in a timely manner to enable Red Energy to comply with its obligations as the "responsible person" and "financially responsible Market Participant" under the National Electricity Rules; and
    - (iii) if the Metering Provider and/or Metering Data Agent fails to comply with its relevant obligations under the National Electricity Rules at any time (including meeting its service levels in terms of the provision and quality of meter data), Red Energy will advise the Customer and the Customer must procure the Metering Provider and/or Metering Data Agent (as the case may be) rectify any such failure.
- (9) The Customer may nominate its preferred Metering Coordinator. Red Energy must cooperate with the Metering Coordinator nominated by the Customer for the purposes of performing its obligations under this Contract.
- (10) The Customer may nominate its preferred Metering Provider, including in the event it wishes to have a new meter installed at the Premises. The Customer may also nominate its preferred Metering Data Provider.
- (11) Where Red Energy has appointed a Metering Coordinator for a Supply Address, Red Energy will use its best endeavours to ensure that a meter reading is carried out as frequently as is needed to prepare

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- the Customer's bills, consistently with the metering rules and in any event at least once every 12 months.
- (12) Where Red Energy has appointed a Metering Coordinator for the Supply Address, Red Energy will ensure special readings of a meter are carried out at the Customer's request. Red Energy may charge the Customer to carry out such a meter reading at the rates set out in this Contract.
  - (13) For the avoidance of doubt, Red Energy will charge the Customer for meter reading and data collection services at cost, as a separate line item in the electricity bill, referencing each Supply Address.
  - (14) In performing this Contract and accessing any of the premises, Red Energy will ensure that it (and each of its employees, contractors, subcontractors and any Metering Coordinator or Metering Provider to the extent engaged by Red Energy) comply with all of the Customer's relevant operational and safety requirements and procedures, and WH&S Laws, including any relevant safety management system and environmental management system provided by the Customer to Red Energy.
  - (15) The Customer will provide Red Energy with copies of the relevant requirements or procedures and will notify and provide reasonable notice to Red Energy of any new or amended requirements or procedures.
  - (16) For the purposes of this clause 14, "**WH&S Laws**" means the *Rail Safety National Law (NSW)*, as defined in the *Rail Safety (Adoption of National Law) Act 2012 (NSW)*; *Work Health & Safety Act 2011 (NSW)*; *Workers Compensation Act 1987 (NSW)*; *Workplace Injury Management and Workers Compensation Act 1998 (NSW)*, and regulations made under each of those Acts.

**15. METERING READINGS AND ESTIMATIONS**

- (1) To the extent possible, for the Large Sites Red Energy will procure the reading of the Metering Equipment at each Supply Address on a daily basis to obtain the Meter Data. The Customer acknowledges and agrees that each electricity bill provided by Red Energy to the Customer for payment of the Charges will, where possible, be calculated using the actual Meter Data obtained from the Supply Address.
- (2) Without limiting **clause 15(1)** above, the Customer may at any time request in writing for Red Energy to procure the Distributor to perform a 'special meter read' in respect of a Supply Address in order to obtain the actual Meter Data from that Supply Address. The costs of each 'special meter read' will be payable by the Customer to Red Energy, subject to Red Energy issuing the Customer with a tax invoice for such costs.
- (3) If, for any reason, Meter Data at a Supply Address is not available or Red Energy is unable to reliably base an electricity bill on the Meter Data, Red Energy may, in accordance with the National Electricity Rules, estimate the quantity of electricity consumed by the Customer at the Supply Address during the relevant Month for the purposes of calculating the Charges payable by the Customer to be included in the electricity bill for that Month. If Red Energy estimates the electricity that the Customer has consumed for an electricity bill for a particular Month, but later obtains reliable Meter Data, Red Energy will adjust the Customer's electricity bill for that Month based on the reliable Meter Data and **clause 7(6)** will apply.

**16. DISCONNECTION AND RECONNECTION**

- (1) Red Energy acknowledges that the Customer provides essential public services and that the supply and sale of electricity by Red Energy under this Contract is vital to the provision of those services.
- (2) The Customer acknowledges that Red Energy may only disconnect the Customer's Supply Address in accordance with this Contract (including non-payment and vacating the Supply Address), as required by Law or in the case of an emergency.
- (3) Independent from and without limiting Red Energy's right to terminate this Contract under **clause 17**, if Red Energy proposes to disconnect the Customer's Supply Address as a result of a requirement of Law or in the case of an emergency, Red Energy must:
  - (a) notify the Energy Contract Manager of the Customer of the proposed disconnection at least five (5) Business Days prior to the proposed disconnection or, if the disconnection is required to be performed without delay to prevent, rectify or mitigate an emergency, whatever period of notice is reasonable in the circumstances;

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- (b) not disconnect the Customer's Supply Address in preference to any other customer's supply address and, to the greatest extent possible, only disconnect the Customer's Supply Address as a last resort;
  - (c) use all reasonable endeavours to minimise the period of any disconnection and restore the supply of electricity to the Customer's Supply Address as soon as possible; and
  - (d) take all reasonable steps to have the above requirements noted on any relevant systems of Red Energy and any relevant records or registers of the Local Network Service Provider.
- (4) The notification referred to in **clause 16(3)(a)** must include:
- (a) an explanation of the reason for the proposed disconnection and the measures taken to mitigate the effects of the disconnection;
  - (b) the date and time that the proposed disconnection will take effect; and
  - (c) where reasonably possible, an estimate of the time when the supply of electricity will be restored.
- (5) Independent from and without limiting Red Energy's right to terminate this Contract under **clause 17**, Red Energy must not disconnect any of the Customer's Supply Addresses for any reason other than the circumstances contemplated under **clause 16(3)** until Red Energy:
- (a) has given the Customer a notice in respect of the circumstances giving rise to its right to Disconnect the Site including of a default or failure to pay;
  - (b) if the Customer has not remedied those circumstances, including any default within six (6) Business Days of the giving of the notice under **clause 16(5)(a)**, has given the Customer a disconnection warning notice with at least six (6) Business Days' notice from the date of the notice of its intention to disconnect the Customer's premises;
  - (c) after giving the disconnection warning notice under **clause 16(5)(b)**, has contacted the Energy Contract Manager of the Customer in one of the following ways:
    - (i) in person;
    - (ii) by telephone (in which case contact is taken to have occurred only if the telephone is answered by the Energy Contract Manager); or
    - (iii) by electronic means (in which case contact is taken to have occurred only if the Energy Contract Manager acknowledges receipt of the message);
  - (d) the Customer has refused or failed to take any reasonable action towards remedying the default following contact to the Energy Contract Manager; and
  - (e) Red Energy has followed the procedure set out in **clause 16(3)**.
- (6) Independent from and without limiting Red Energy's right to terminate this Contract under **clause 17**, Red Energy may disconnect the Customer's electricity Supply at a Supply Address if the Customer vacates the Supply Address and as given Red Energy notice that it has vacated a Supply Address.
- (7) If a Customer's electricity Supply at a Supply Address has been disconnected by Red Energy under **clause 16(5)** and the Customer addresses any and all conditions imposed by Red Energy which may include the payment of a reconnection fee within 5 Business Days of the disconnection, Red Energy will as soon as possible procure the reconnection of the electricity Supply at that Supply Address following the receipt of a request by the Customer for Red Energy to do so.
- (8) For the purposes of this **clause 16**:
- (a) **Disconnection or disconnect** means each of disconnecting, stopping, interrupting or curtailing (whether or a temporary or permanent basis) the supply of electricity to any of the Customer's premises, and includes requesting the relevant network service provider to take any of these actions; and
  - (b) **Energy Contract Manager** means Sue Robinson, Contracts Delivery Manager - Commercial & Supply Chain, Engineering and Maintenance, Sydney Trains (phone: 0434 858 157 / email: SUSAN.ROBINSON@transport.nsw.gov.au) or any other person nominated by the Customer in writing as the Energy Contract Manager for the purpose of this **clause 16**.

**17. TERMINATION**

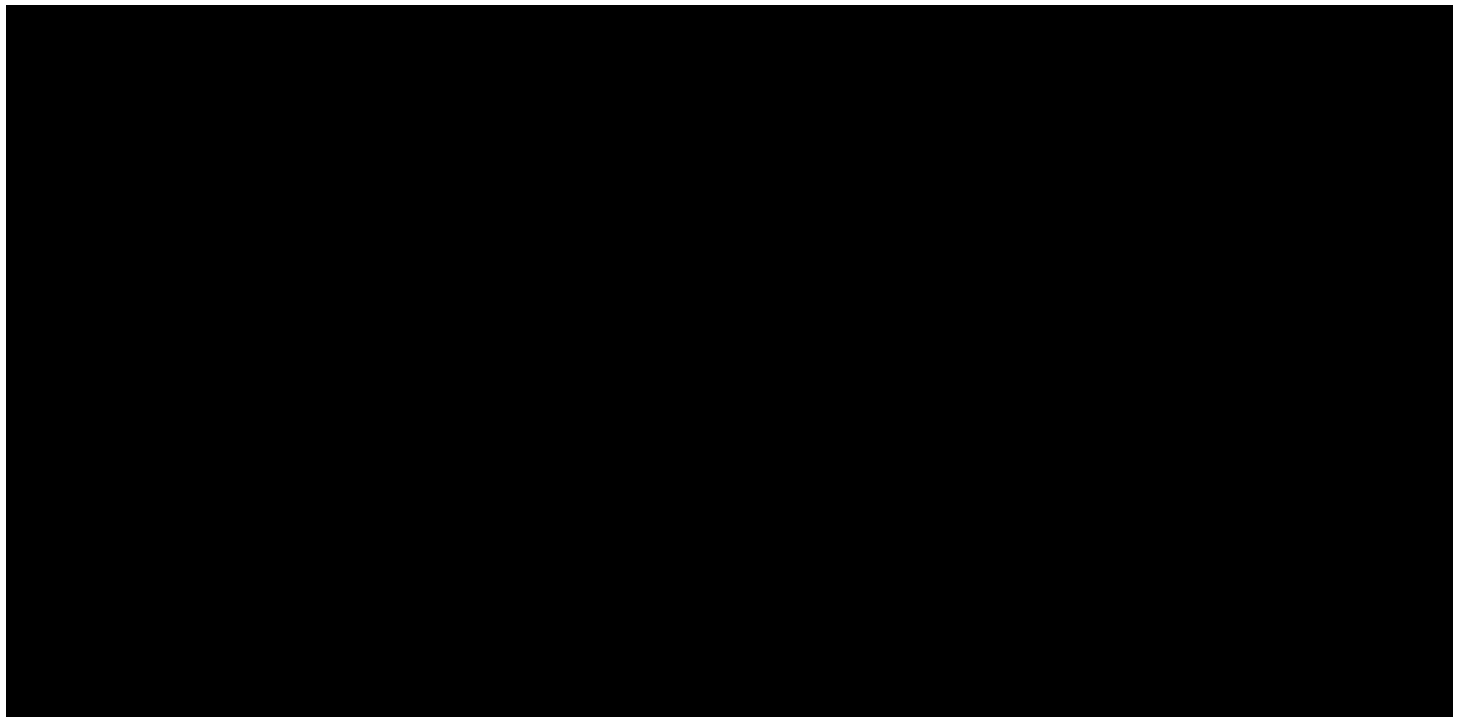


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- (1) Red Energy may terminate this Contract immediately by giving written notice to the Customer:
  - (a) if the Customer has committed an Event of Default and has not remedied that Event of Default within 20 Business Days of being requested to do so by Red Energy;
  - (b) if the Customer is the subject of an Insolvency Event; or
  - (c) if Red Energy has disconnected supply to Supply Addresses in accordance with **clause 16** that represent a material portion of the load the subject of this Contract.
- (2) The Customer may terminate this Contract immediately by giving written notice to Red Energy:
  - (a) if Red Energy has committed a material breach of this Contract and has not remedied that breach within 20 Business Days of being requested to do so by the Customer; or
  - (b) if Red Energy is the subject of an Insolvency Event;
  - (c) in accordance with **clause 28.2(2)**.
- (3) Termination of this Contract under:
  - (a) **clause 17(1)** takes effect on the date of receipt by the Customer of a notice given under that clause or, where notice is required, on the date set out in the notice; or
  - (b) **clause 17(2)** takes effect on the date of receipt by Red Energy of a notice given under that clause or, where notice is required, on the date set out in the notice,(each a "**Termination Date**").
- (4) If this Contract is terminated by Red Energy under **clause 17(1)**:
  - (a) termination is without prejudice to any accrued rights or remedies of Red Energy and Red Energy reserves the right to take any action against the Customer to recover any loss, damage, expense, liability, claim and cost suffered by Red Energy as a result of or in connection with, whether directly or indirectly, the termination;
  - (b) subject to **clause 16**, Red Energy may procure the disconnection of the electricity Supply to the Supply Addresses; and
  - (c) the Customer must pay Red Energy for all Charges incurred by the Customer at each Supply Address up to and including the date another retailer becomes "financially responsible" for that Supply Address, including any Charges in respect of the termination of this Contract.

**18. LIMITATIONS OF LIABILITY & INDEMNITY**



## 19. FORCE MAJEURE

- (1) If a Force Majeure Event occurs with respect to a party ("**Affected Party**"), the Affected Party will not be in breach of this Contract for non-performance of its obligations that are affected by the Force Majeure Event, for as long as the Force Majeure Event continues.
- (2) The Affected Party must, within a reasonable timeframe, notify the other party ("**Other Party**") in writing of the Force Majeure Event and provide full particulars of the Force Majeure Event including an estimate of its duration.
- (3) The Affected Party must use its best endeavours to remove, overcome or minimise the effects of the Force Majeure Event as quickly as possible.

## 20. CONFIDENTIAL INFORMATION

- (1) The Customer:
  - (a) acknowledges that the Confidential Information is confidential and is at all times the property of Red Energy;
  - (b) must maintain and take all reasonable steps to maintain the Confidential Information in strictest confidence; and
  - (c) if requested in writing by Red Energy to do so, agrees to securely return to Red Energy all Confidential Information within 10 Business Days of being requested to do so by Red Energy.
- (2) Unless required by Law or under **clause 28.3**, the Customer must not make any announcement, circular or other public disclosures of the contents of this Contract without Red Energy's prior written approval.

## 21. DISPUTES

### 21.1 Parties May Not Commence Court Proceedings

Except where a party seeks urgent interlocutory relief, a party may not commence any Court proceedings relating to Disputes unless it has first complied with **clause 21.2**.

### 21.2 Dispute Resolution Procedures

- (1) Each Dispute must be dealt with as follows:
  - (a) **step one:** the party claiming that there is a Dispute must send to the other party a notice setting out the particulars of the Dispute;
  - (b) **step two:** the parties must make a good faith attempt to try to resolve the dispute by direct negotiation; and

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- (c) **step three:** if the Dispute is not resolved by the parties within 10 Business Days of a party giving notice to the other under **clause 21.2(1)(a)** the Dispute must be referred to a mediator agreed between the parties or appointed by the President of the Law Society of New South Wales.
- (2) If the steps above do not result in settlement of the Dispute, either party may elect to refer the Dispute to expert determination. If neither party elects to refer the Dispute to expert determination within 10 Business Days of completion of the mediation, commenced in accordance with **clause 21.2(1)(c)**, the condition precedent in **clause 21.1** will be deemed to have been satisfied.

**21.3 Parties Must Continue to Comply with Contract**

- (1) Subject to **clause 21.3(2)**, despite the existence of a Dispute, both parties must continue to perform their obligations under this Contract.
- (2) If a Dispute relates to the outcome of a review by Red Energy under **clause 7(5)**, the Customer may continue to withhold payment of the amount the subject to a Review Request under **clause 7(5)** until that Dispute is resolved in accordance with this Contract.

**22. PRIVACY**

- (1) Red Energy is committed to respecting the Customer's privacy and complying with the Privacy Laws including standards of collection and disclosure of, and access to, Personal Information. Red Energy may collect Personal Information (such as names, email addresses and telephone numbers) and, with prior consent, Sensitive Information, about the Customer or its Representatives to assist in the operation of Red Energy's business and the Supply of electricity and other products and services to the Customer, managing Red Energy's relationship with the Customer and otherwise managing or administering this Contract.
- (2) Any Personal Information collected, stored, used and disclosed by Red Energy will be treated in accordance with the Privacy Laws and Red Energy's C&I Privacy Policy (available at [www.redenergy.com.au](http://www.redenergy.com.au) or by requesting a copy from the Red Energy Privacy Officer on the details below). Red Energy's C&I Privacy Policy includes details on how Red Energy may disclose Personal Information to its related companies, service providers (including data management providers in Japan and Singapore), other organisations Red Energy engages to assist it with delivering its products and services, government and regulatory authorities and professional advisers, how the Customer or its Representatives may access and correct Personal Information, and how complaints may be made and will be handled. For more information on Red Energy's privacy practices, please contact Red Energy's Privacy Officer at PO Box 4136 East Richmond Vic 3121 or by calling 131 806.
- (3) The Customer must notify its Representatives of the matters contained in this **clause 22**.
- (4) If the Customer collects any Personal Information about Red Energy's Representatives, the Customer must comply with the Privacy Act, even if it is a 'small business operation' (as defined in the Privacy Act).

**23. NOTICES**

- (1) In order to have legal effect, a notice or other communication ("**Notice**") sent by a party must be in writing and received by the other party.
- (2) Any Notices required to be given under this Contract by any party to another must be in writing and addressed to the intended recipient to the Address for Service set out in **Part A**.
- (3) A notice given under this **clause 23** is deemed to be received by the relevant party:
  - (a) **if mailed:** on actual delivery to that address as evidenced by Australia Post documentation;
  - (b) **if sent by facsimile:** before 4pm on a Business Day at the place of receipt on the day it is sent and otherwise on the next Business Day at the place of receipt;
  - (c) **if sent by email:** at the time it was sent to the recipient's e-mail address; or
  - (d) **if otherwise delivered:** on delivery.

**24. ASSIGNMENT**

- (1) Notwithstanding anything in this Contract to the contrary, except as provided in **clause 24(2)** and **clause 24(3)**, neither party may assign, or otherwise transfer its rights under this Contract, or novate any of its rights or obligations under this Contract (each a "**transfer**") without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed, having regard to:

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- (a) the assignee's creditworthiness and financial capacity; and
  - (b) the level and nature of any financial guarantees or other credit support to be procured by that assignee in favour of the other party.
- (2) Despite **clause 24(1)**, Red Energy may, without the prior written consent of the Customer, assign, novate, transfer or otherwise deal with any or all of its rights, or obligations under this Contract at any time if the transferee is a related entity of Red Energy or an entity which is wholly owned by or is an agency of the Commonwealth. The Customer will execute all documents reasonably necessary to effect the assignment, novation, transfer or dealing.
- (3) Despite **clause 24(1)**, the Customer may, without the prior written consent of Red Energy, assign, novate, transfer or otherwise deal with any or all of its rights, or obligations under this Contract at any time if:
- (a) the transferee is a related entity of the Customer or an entity which is wholly owned by or is an agency of the State of New South Wales; or
  - (b) the assignment, novation, transfer or dealing is in connection with any reform, restructure or privatisation of the Customer,
- and Red Energy will execute all documents reasonably necessary to effect the assignment, novation, transfer or dealing
- (4) A change in the persons who beneficially own or Control a party will be deemed a transfer for the purposes of this **clause 24**.
- (5) Red Energy and the Customer will execute all documents reasonably necessary to effect a transfer referred to in this **clause 24**.

**25. MISCELLANEOUS PROVISIONS**

- (1) The Customer acknowledges and agrees that a fee or commission may be paid by Red Energy to a person as a result of introducing the Customer to Red Energy, or facilitating a supply arrangement between the Customer and Red Energy.
- (2) This Contract may only be varied or replaced as agreed in writing by the parties.
- (3) Each party must pay its own costs and outlays connected with the negotiation, preparation and execution of this Contract.
- (4) Red Energy may set off or deduct any amount owing to it from the Customer, from amounts payable by Red Energy to the Customer.
- (5) The Customer may set off or deduct any amount owing to it from Red Energy, from amounts payable by Customer to Red Energy.
- (6) A single or partial exercise or waiver of a right relating to this Contract will not prevent any other exercise of that right or the exercise of any other right. A party's failure or delay to exercise a right does not operate as a waiver of that right. A waiver is not effective unless it is in writing and signed by the party. A waiver of a right is effective only in respect of the specific instance to which it relates and for the specific purposes for which it is given.
- (7) **Clauses 2(3), 7, 15, 16, 16(4), 18, 20 and 21, 22** and this **clause 25(7)** survive termination or expiration of this Contract.
- (8) All the provisions of this Contract will so far as possible be construed so as not to be invalid, illegal or unenforceable in any respect. Despite this, if any provision of this Contract on its true interpretation is illegal, invalid or unenforceable, that provision will as far as possible be read down to such extent as may be necessary to ensure that it is not illegal, invalid or unenforceable and as may be reasonable in all the circumstances so as to give it a valid operation of a partial character. If any provision of this Contract or any part of it cannot be so read down, that provision or part will be deemed to be void and severable and the remaining provisions of this Contract will not in any way be affected or impaired.
- (9) This Contract may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same Contract.
- (10) This Contract embodies the entire understanding and agreement between the parties as to the subject matter of this document. All previous negotiations, explanations, understandings, representations, warranties, memoranda, commitments or information provided in relation, or in any way affecting, the

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subject matter of this Contract are merged in and superseded by this Contract and will be of no force or effect whatsoever and no party will be liable to any other party in respect of those matters.

- (11) This Contract is governed by and is to be construed in accordance with the Laws in force in New South Wales. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales and any courts which have jurisdiction to hear appeals from any those courts and waives any right to object to any proceedings being brought in those courts.

**26. EMBEDDED NETWORKS**

- (1) This **clause 26** is applicable if the Customer has existing, and/or is planning on establishing, embedded networks which supply electricity to embedded electricity customers of the Customer, and Red Energy is 'financially responsible' for a 'parent' NMI associated with that embedded network.
- (2) The Customer represents and warrants that it has obtained, and will maintain, all authorisations, registrations or exemptions, and will comply with all obligations required under Law, in respect its supply of electricity as an embedded network operator to customers within each of its embedded networks.
- (3) If the Customer has not notified Red Energy of the existence of any 'child' NMIs in accordance with the timing requirements of **clause 1(5)**, upon being so notified of those NMIs Red Energy will request consumption data for those NMIs from the applicable Local Network Service Provider, however the Customer will remain liable for any Charges in respect of which consumption data is not provided by the Local Network Service Provider.
- (4) Red Energy will provide all assistance reasonably required by the Customer in respect of each embedded network in accordance with the Law (including, without limitation, the National Electricity Rules and the 'Guide to the Role of the Responsible Person' and 'Embedded Network Guideline' documents published by AEMO) and otherwise in accordance with Good Industry Practice.
- (5) Without limiting **clause 26(4)**, Red Energy will specifically provide all assistance reasonably required by the Customer in respect of the following for each embedded network:
- (a) verifying that all 'parent' NMIs are registered in the Market Settlement & Transfer System (**MSATS**);
  - (b) verifying that all 'child' NMIs which are notified to Red Energy by the embedded network operator are registered and tagged in MSATS;
  - (c) providing 'NEM 12' consumption data for each 'child' NMI which is notified to Red Energy by the embedded network operator;
  - (d) assisting the embedded network operator with any reasonable queries they may have from time to time in relation to 'parent' and 'child' NMI:
    - (i) MSATS registrations; and
    - (ii) billings;
  - (e) assisting the embedded network operator with any reasonable queries they may have from time to time in relation to energy, network and other charges; and
  - (f) assisting the embedded network operator in relation to the creation/establishment of any new embedded networks by undertaking the necessary processes for the new connections of 'parent' NMIs and the required administration for the registration and tagging of the embedded networks in MSATS.

**27. RED ENERGY INSURANCE OBLIGATIONS**

Red Energy must:

- (1) maintain in place during the term of this Contract the following insurance with insurers that hold a credit rating of not less than A from Standard & Poor's, A2 from Moody's Investor Services or A- from A.M. Best Company:
- (a) Public and Product Liability Insurance with a policy limit of a least \$20 million per occurrence;
  - (b) Workers Compensation Insurance as required by Law;
  - (c) Motor Vehicle Insurance with a policy limit of a least \$20 million for third party and property damage; and
  - (d) Professional Indemnity Insurance with a policy limit of a least \$20 million per occurrence,

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and ensure that if Red Energy's activities are to be carried out on or near rail, the Public Liability Insurance does not contain any exclusions or limitations in cover in respect of works conducted on or near rail; and

- (2) provide the Customer's Representative with copies of certificates of currency for the insurances referred to in **clause 27(1)** as required by the Customer's Representative from time to time.

**28. MODERN SLAVERY AND ANTI CORRUPTION****28.1 Modern Slavery**

- (1) Red Energy warrants that it is not aware of any Modern Slavery in its supply chain.
- (2) Should Red Energy become aware of any:
  - (a) Modern Slavery risks in its supply chain or operations, it must notify the Customer of those risks and advise the Customer of the steps it is taking to eliminate or minimise those risks; or
  - (b) Modern Slavery practices being carried out within its operations or supply chain, it must in writing, immediately notify the Customer of those practices and of the remediation action it proposes to take and implantation of that remedial action;
- (3) If Red Energy is a 'reporting entity' for the purposes of any state or federal Modern Slavery legislation, including the *Modern Slavery Act 2018* (Cth), it must comply with such legislation and provide the Customer with a copy of any report it is required to prepare under that legislation at the Customer's request.
- (4) For the purposes of this clause, "**Modern Slavery**" has the meaning given in section 4 of the *Modern Slavery Act 2018* (Cth) and includes any form of slavery, servitude, debt bondage, deceptive recruitment practices, or forced labour to exploit children or other persons.

**28.2 Corruption prevention**

- (1) Red Energy warrants and represents to the Customer that:
  - (a) it has not, and none of its Representatives have, engaged in any corrupt conduct at any time prior to the Award Date; and
  - (b) it will not, and will ensure that its Representatives do not, at any time engage in any corrupt conduct.
- (2) Without limiting or otherwise restricting any other rights of the Customer under the Contract, if:
  - (a) Red Energy or any of its Representatives are at any time found to have engaged in corrupt conduct; or
  - (b) Red Energy is at any time found to have breached the warranty and representation given in **clause 28.2(a)**,
 the Customer may terminate the Contract with immediate effect by giving written notice to Red Energy.
- (3) In this **clause 28.2**, terms which are defined in the *Independent Commission Against Corruption Act 1988* (NSW) (**ICAC Act**) have the meaning given in the ICAC Act.
- (4) In this **clause 28.2**, "**Award Date**" means the date on which the Contract has been signed by the last party to sign.

**28.3 Provision of Information**

- (1) Red Energy acknowledges that the Customer may disclose this Contract (and information concerning the terms of this Contract) under or in accordance with any one or more of the following:
  - (a) the GIPA Act; and
  - (b) to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of Parliamentary accountability,
 and the Contractor must provide to the Principal any other information which the Principal reasonably requires to comply with its obligations under **clause 28.3(1)**.
- (2) If the Customer is required to include a copy of this Contract in the government contracts register pursuant to the GIPA Act:

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- (a) the Customer will not disclose the specific charges under Part A of this Contract, but may disclose the total estimated value of the transaction along with the remainder of this Contract; and
- (b) if Red Energy considers that the Customer should not disclose any other provisions of this Contract on the basis that their disclosure would fall within section 32(1) of the GIPA Act, Red Energy must within 10 Business Days of the Award Date give the Customer written notice of:
  - (i) any provisions of the Contract it believes should not be disclosed for the reasons set out in section 32(1) of the GIPA Act; and
  - (ii) details of:
    - (A) the reasons why the provisions should not be disclosed;
    - (B) whether the provisions can be disclosed at a later date and, if so, when it is likely that they can be disclosed; and
    - (C) a general description of the types of provisions that the Contractor proposes should not be disclosed; and
    - (D) in complying with its disclosure obligations under the GIPA Act, the Customer will consider, but will not be bound by, any proposal made by Red Energy under **28.3(2)(b)(ii)**.
- (3) For the avoidance of doubt, nothing in this Contract will waive any rights that Red Energy may have in relation to information provided under or subject to GIPA Act.

**29. DEFINITIONS**

In this Contract, capitalised terms have the meaning given to them in **Part A – Red Energy Electricity Supply Contract Schedule**, and otherwise:

- (1) **“AEMO”** means Australian Energy Market Operator Limited ABN 94 072 010 327.  
**“AMI”** means advanced metering infrastructure under the National Electricity Law.
- (2) **“Award Date”** has the meaning given to that term in **clause 28.2(4)**.
- (3) **“Baseline Level”** has the meaning given to “1997 eligible renewable power baseline” in the *Renewable Energy (Electricity) Act 2000* (Cth) (as amended from time to time).
- (4) **“BBG”** means electricity generation by Red Energy or its Related Bodies Corporate (as that term is defined in the *Corporations Act 2001*(Cth)) below the Baseline Level for the facilities owned by such entities.
- (5) **“Billing Address”** means the address to which the Customer requests that Red Energy forwards the electricity bills, as set out in **Part A**.
- (6) **“Business Day”** means a day other than a Saturday or Sunday or a public holiday in the place where an act is to be performed under this Contract.
- (7) **“Calibration Request”** has the meaning given to that term in **clause 14(6)**.
- (8) **“Charges”** has the meaning given to that term in **clause 4(1)**.
- (9) **“Clarification Notice”** has the meaning given to that term in **clause 4(3)**.
- (10) **“Clarification Notice Response”** has the meaning given to that term in **clause 4(3)**.
- (11) **“Code”** means the Evident Code for I-REC (Electricity) published by Evident (as amended or supplemented from time to time), is set out at:  
<https://www.irecstandard.org/?wpdmdl=2783&ind=1636016135121>.
- (12) **“Commencement Date”** is the date that this Contract commences and takes effect, as set out in **Part A**.
- (13) **“Condition Precedent”** has the meaning given to that term in **clause 1(3)**.
- (14) **“Confidential Information”** means information of every kind that is marked “confidential”, is by its nature confidential, or the Customer knows or ought to know is confidential, that in any way relates to:
  - (a) the Supply of electricity by Red Energy;
  - (b) this Contract; or

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- (c) Red Energy or any of its related entities, whether in oral, documentary, visual or any other form including notes that:
  - (d) is disclosed by Red Energy or by any person on behalf of Red Energy to the Customer, by any means; or
  - (e) comes to the Customer's knowledge by any means in the course of receiving the Supply of electricity from Red Energy.
- (15) **"Contract"** means this Contract for the Supply and sale of electricity, comprising **Part A**, these terms and conditions and the Special Conditions.
- (16) **"Contract Expiry Date"** means the date upon which this Contract expires, as set out in **Part A**.

- (18) **"Control"** is as defined in the *Corporations Act 2001* (Cth).
- (19) **"Customer"** is the party to whom Red Energy is Supplying electricity, as set out in **Part A**.
- (20) **"Deemed Distribution Agreement"** means any agreement between the Customer and the Distributor in relation to the Supply of electricity to the Supply Address that is deemed to exist in accordance with the Electricity Act.
- (21) **"Default Charges"** means the:
- (a) Volume Weighted Spot Price █████ MWh for Large Sites; and
  - (b) Default Market Offer (DMO) for Small Sites.
- (22) **"Default Interest Rate"** means the Westpac Overdraft Business interest rate as published by Westpac Banking Corporation from time to time, █████
- (23) **"Dispute"** includes any difference, dispute, matter, questions, controversy or claim.
- (24) **"Distribution Loss Factor"** has the meaning given to that term in the National Electricity Rules.
- (25) **"Distribution System"** means the Distributor's systems including but not limited to poles and wires, which deliver electricity to the Supply Address.
- (26) **"Distributor"** means the company which owns and operates the Distribution System in the locality in which the Supply Address is located.
- (27) **"Electricity Act"** means the:
- (a) *Electricity Industry Act 2000* (Vic), in respect of the Supply of electricity in Victoria under this Contract;
  - (b) *Electricity Supply Act 1995* (NSW), in respect of the Supply of electricity in New South Wales under this Contract;
  - (c) *Electricity Act 1994* (Qld), in respect of the Supply of electricity in Queensland under this Contract;
  - (d) *Electricity Act 1996* (SA), in respect of the Supply of electricity in South Australia under this Contract; or
  - (e) *Utilities Act 2000* (ACT), in respect of the Supply of electricity in the Australian Capital Territory under this Contract.
- (28) **"Electricity Law"** means the Electricity Act, any regulations made under the Electricity Act and each other Law in force from time to time in Victoria, New South Wales, Queensland, South Australia or the Australian Capital Territory (as applicable) which governs the sale and Supply of electricity.
- (29) **"Energy Charge"** means:
- (a) for a Small Site, the Small Sites Tariff for that Site as specified in Part A; or
  - (b) for a Large Site, the Energy Tariff for that Site multiplied by the applicable Losses.



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- (30) **“Energy Tariff”** for a Supply Address, means the energy tariff (in dollars per megawatt-hour) which is payable by the Customer in respect of its consumption of electricity under this Contract at that Supply Address for the applicable time period, exclusive of Losses for that Supply Address.
- (31) **“Estimated Load”** of a State, means the estimated Large Site annual load of electricity the Customer will consume in that State, as specified in **Part A – Annexure A**.
- (32) **“Event of Default”** means an event where the Customer:
- (a) breaches any relevant Law;
  - (b) takes electricity from Red Energy illegally or in any way tampers with or bypasses the Metering Equipment; or
  - (c) breaches any term of this Contract. The parties agree that, in respect of any breach by the Customer which relates to non-payment to Red Energy of an undisputed amount by the due date for payment, such unpaid amount will be deemed to be an unpaid amount in respect of Supply to the Sites in the following order of precedence (up to the amount of the Charges incurred by the Customer for Supply to those Sites which remains unpaid): (a) Large Sites; and (b) Small Sites.
- (33) **“Extended Term”** means the term set out in a Renewal Offer.
- (34) [REDACTED] control of the affected party and includes:
- (a) elements of nature or acts of God; and
  - (b) war, riot, insurrection, vandalism, sabotage, or extreme climatic events,
- but excludes the Customer’s liability to make any payments to Red Energy.
- (35) **“GIPA Act”** means the *Government Information (Public Access) Act 2009 (NSW)*.
- (36) **“Good Industry Practice”** means the practices, procedures, methods and standards which are generally used by electricity retailers in the energy industry.
- (37) **“Green Charges”** are the charges as set out in Part A Annexure A
- (38) **“GST Exclusive Amount”** has the meaning given to that term in **clause 11(2)**.
- (39) **“GST Law”** has the meaning given to that term in **clause 11(1)**.
- (40) **“ICAC Act”** means the *Independent Commission Against Corruption Act 1988 (NSW)*.
- (41) **“Insolvency Event”** means:
- (a) an order is made or an application is made to a court for an order that a party be wound up;
  - (b) an application is made to a court for an order appointing a liquidator or provisional liquidator or a liquidator or a provisional liquidator is appointed in respect of a party;
  - (c) a party enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any classes of its creditors, or it proposes a re-organisation, moratorium or other administration involving any of them;
  - (d) a party resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the other party or is otherwise wound up or dissolved;
  - (e) a party is or states that it is unable to pay its debts when they fall due;
  - (f) a party takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a party; or
  - (g) anything analogous or having a substantially similar direct effect to any of the events specified in **clause 29(41)(a)29(41)(a)** up to and including **clause 29(41)(f)29(41)(f)** under the Law of any applicable jurisdiction.

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- [REDACTED]
- (45) **"LREC"** means a "large-scale generation certificate", as that term is defined in the Renewable Energy (Electricity) Act 2000.
  - (46) **"Large Site"** means a Site in respect of which a type 1, 2, 3 or 4 metering installation under the National Electricity Law, has been installed.
  - (47) **"Large Site Cessation Date"** has the meaning given to that term in **Part A**, as extended under **clause [Error! Reference source not found.1.1\(1\)](#)**.
  - (48) **"Law"** means any common law requirement, statute, regulation, rule, proclamation, order, common law, ordinance, or by-law or any code of practice, practice notes, guidelines, rules, membership rules or standard issued by relevant regulators or industry bodies, whether present or future and whether Commonwealth, State, territorial or local that in any way directly or indirectly relates to this Contract.
- [REDACTED]

- (53) **"Local Network Service Provider"** has the meaning given to that term in the National Electricity Rules.
- [REDACTED]

- (56) **"Market Change Statement"** has the meaning given to that term in **clause 4(3)**.
- (57) **"Market Fee"** means a fee payable by the Customer for the Supply of electricity as identified in **Part A**.
- (58) **"Meter Data"** means the measurements and data obtained from Metering Equipment.

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- (59) **“Metering Coordinator”** as the meaning given to that term in the National Electricity Rules.
- (60) **“Metering Charge”** means the charge payable by the Customer for the services provided by the Distributor or Metering Provider and Metering Data Provider (as the case may be), as set out in **Part A**.
- (61) **“Metering Data Agent”** means in respect of metering installations types 1 to 4 under the National Electricity Law, a person that has entered into a MDA Services Deed with AEMO, and the term is otherwise taken to be of the same meaning as Metering Data Provider in terms of the National Electricity Law.
- (62) **“Metering Data Provider”** is as defined in the National Electricity Law.
- (63) **“Metering Equipment”** means the electricity meter and ancillary equipment that records measurements regarding electricity consumption at a Supply Address.
- (64) **“Metering Equipment Works”** has the meaning given to that term in **clause 14(5)**.
- (65) **“Metering Provider”** is as defined in the National Electricity Law.
- (66) **“Modern Slavery”** has the meaning given to that term in **clause 28.1(4)**.
- (67) **“Month”** means calendar month and **“Monthly”** means each calendar month.
- (68) **“MSATS** has the meaning given to that term in **clause 26(5)(a)**.
- (69) **“National Electricity Law”** means the National Electricity Law set out in the schedule to the *National Electricity (South Australia) Act 1996 (SA)*.
- (70) **“National Energy Retail Law”** means the law of that name, as applied in the State(s) in which the Supply Addresses the subject of this Contract are located.
- (71) **“National Energy Retail Rules”** means the National Energy Retail Rules made under the National Energy Retail Law.
- (72) **“National Electricity Rules”** means the “National Electricity Rules” as defined in the National Electricity Law or in any replacement legislation.
- (73) **“Network Charges”** means the charges payable by the Customer for the use of the Distribution System, which are determined by reference to the network tariff code that corresponds with each Supply Address, as set out in **Part A**.
- (74) **“NMI”** means the national electricity meter identifier which is the unique identifying mark that identifies a Supply Address.
- (75) **“Off-Peak”** has the meaning given to that term in **Part A**.
- (76) **“Other Charges and Fees”** has the meaning given to that term in **Part A**.
- (77) **“Part A”** means the document titled ‘Part A – Red Energy Electricity Supply Contract Schedule’, which forms part of this Contract.
- (78) **“Payment Terms”** means the number of days from the date of any electricity bill by which the Customer must pay the electricity bill, as set out in **Part A**.
- (79) **“Peak”** has the meaning given to that term in **Part A**.
- (80) **“Personal Information”** has the meaning given to that term in the Privacy Act.
- (81) **“Privacy Act”** means the *Privacy Act 1988 (Cth)*.
- (82) **“Privacy Laws”** means the *Privacy Act 1988 (Cth)*, the Australian Privacy Principles made under the *Privacy Act 1988 (Cth)* and all related State legislation.
- (83) **“Quarter”** means each 3 month period of a calendar year commencing on January, April, July and October, except:
- (a) the first Quarter will be the period commencing on the Commencement Date and ending on the last day of March, June, September or December of that calendar year (whichever occurs earliest); and
  - (b) the last Quarter will be the period from the end of the immediately preceding Quarter until the expiry or Termination Date of this Contract (as the case may be).

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- (84) "**Redemption**" means a redemption of IRECs in accordance with the Code, and "**Redeem**" and "**Redeemed**" have the same meaning.
- (85) "**Redemption Statement**" has the meaning given to that term in the Code.
- (86) "**Red Energy**" means Red Energy Pty Limited (ABN 60 107 479 372) of 570 Church Street, Cremorne, Victoria 3121.
- (87) "**REGO Product**"; means a product that can be created under the REGO Scheme.
- (88) "**REGO Scheme**"; means the scheme described more broadly in the Commonwealth Department of Climate Change, Energy, the Environment and Water's Policy Position Paper titled "Australia's Guarantee of Origin Scheme" published in December 2022, which can be accessed at <https://consult.dcceew.gov.au/aus-guarantee-of-origin-scheme-consultation>.
- (89) Not Used
- (90) "**Renewal Date**" has the meaning give to that term in **clause 2(2)**.
- (91) "**Representative**" means any officer, employee, agent, contractor or subcontractor, director or consultant of Red Energy or the Customer.
- (92) "**Sensitive Information**" has the meaning given to that term in the Privacy Act.
- (93) "**Shoulder**" has the meaning given to that term in **Part A**.
- (94) "**Site Cessation Date**" means:
- (a) for each Large Site: the Large Site Cessation Date; and
  - (b) for each Small Site: the applicable Small Site Cessation Date.
- (95) "**Small AMI Site**" means a Site in respect of which an AMI metering installation under the National Electricity Law, has been installed.
- (96) "**Small Basic Site**" means a Site in respect of which a type 6 (basic) metering installation under the National Electricity Law, has been installed.
- (97) "**Small Interval Site**" means a Small MRIM Site or a Small AMI Site.
- (98) "**Small MRIM Site**" means a Site in respect of which a type 5 (MRIM) metering installation under the National Electricity Law, has been installed.
- (99) "**Small Site**" means a Small Basic Site or a Small Interval Site.
- (100) "**Small Site Cessation Date**" has the meaning given to that term in **Part A**.
- (101) "**Supplier**" has the meaning given to that term in **clause 11(2)**.
- (102) "**Supply**" means, in relation to electricity, the delivery of electricity and the provision of any related electricity services.
- (103) "**Supply Address or Site**" means each address for which the Customer has agreed to purchase electricity from Red Energy, as set out **Part A** and subject to any Supply Address additions or removals in accordance with this Contract from time to time.
- (104) "**Termination Date**" has the meaning given to that term in **clause 17(3)**.
- (105) "**Transmission Loss Factor**" has the same meaning that the term "intra-regional loss factor" has in the National Electricity Rules.
- (106) "**WH&S Laws**" has the meaning given to that term in **clause 14(16)**.

**30. INTERPRETATION**

In this Contract,

- (1) a reference to:
- (a) the singular includes the plural and the plural includes the singular;
  - (b) a person includes a firm, an unincorporated association, a Government agency or body corporate;
  - (c) a party includes its successors, assigns and substitutes (including persons taking by novation)
  - (d) a statute, regulation or provision of a statute or regulation includes any amendment or replacement; and

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- (e) a monetary amount is to Australian dollars, unless otherwise stated;
- (2) "including" and similar expressions are not words of limitation;
- (3) headings are for convenience only and do not form part of this Contract or affect its interpretation;
- (4) a provision of this Contract must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Contract or the inclusion of the provision in the Contract; and
- (5) if an act must be done on a specified day that is not a Business Day, it must be done instead on the next Business Day.

November 2023 version