

# Market Retail Contract Terms and Conditions

25 May 2020



## OVERVIEW

This Agreement is about the sale of electricity to you as a Customer at your Premises. These are the Terms and Conditions applicable to your market retail contract. The Agreement starts on the Agreement Start Date.

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

We are a Retailer and have no control over the physical supply of electricity to you. Where we refer to supplying electricity to you, this means we will arrange for your Distributor to do so.

Your Distributor is responsible for the physical supply of electricity, including the quality and reliability of the electricity supplied and the connection of your Premises. You also have a separate contract with your Distributor, called a Customer Connection Contract. The Customer Connection Contract deals with the supply of electricity to your Premises and can be found on your Distributor's website.

More information about this Agreement and other matters is available on our website at [nectr.com.au](http://nectr.com.au)

You can contact us by email at [hello@nectr.com.au](mailto:hello@nectr.com.au) or by telephone on **1300 111 211** if you have any queries in relation to the Agreement.

## 1. THE PARTIES

This contract is between:

- (a) Hanwha Energy Retail Australia Pty Ltd ABN 82 630 397 214, trading as Nectr, of Level 25, NorthPoint Tower, 100 Miller Street, North Sydney, NSW 2060, which sells electricity to you at your Premises (in these Terms and Conditions referred to as "Nectr", "we", "our" or "us"); and
- (b) you, the Customer to whom these Terms and Conditions apply (in these Terms and Conditions referred to as "you" or "your").

## 2. DO THESE TERMS AND CONDITIONS APPLY TO YOU?

### 2.1 These are the terms and conditions of your Agreement

These Terms and Conditions set out the terms and conditions for a market retail contract under the National Energy Retail Law and the Rules.

### 2.2 Application of these terms and conditions

These Terms and Conditions apply to you if:

- (a) you are:
  - (i) a Residential Customer; or
  - (ii) a business Customer who is a Small Customer;
- (b) you request us to sell electricity to you at your Premises; and
- (c) you give us your explicit informed consent to enter into a market retail contract.

### 3. WHAT IS THE TERM OF THE AGREEMENT?

#### 3.1 When does the Agreement start?

This Agreement commences on the Agreement Start Date.

#### 3.2 Important Notice to you: Cooling off

- (a) You can cancel your Agreement without penalty within 10 Business Days from and including the day after you signed or received the Agreement and the Nectr Welcome Pack from us (**Cooling Off Period**) by:
  - (i) calling us;
  - (ii) emailing us; or
  - (iii) completing and returning to us the Nectr Cancellation Notice provided to you with these Terms and Conditions.
- (b) You can cancel the Agreement at any time during the Cooling Off Period even if you have agreed to or accepted the Agreement.
- (c) Further details about your additional rights to cancel the Agreement are set out in the Nectr Cancellation Notice provided to you with these Terms and Conditions.

#### 3.3 When will we start supplying electricity to you?

We will not begin supplying electricity to you under this Agreement until:

- (a) your Cooling Off Period expires unless otherwise agreed by both you and us;
- (b) your Premises are connected to the distribution network; and
- (c) if you are transferring to us from another Retailer, on or after the Transfer Complete Date.

#### 3.4 When does the Agreement end?

- (a) This Agreement ends:
    - (i) if you give us a notice stating you wish to end the Agreement – subject to clause 3.4(b), on a date advised by us of which we will give you at least 5 but no more than 20 Business Days' notice;
    - (ii) if you are no longer a Small Customer, subject to clause 3.4(b):
      - (A) on a date specified by us, of which we will give you at least 5 but no more than 20 Business Days' notice; or
      - (B) if you have not told us of a change in the use of your electricity – from the time of the change in use;
    - (iii) if we both agree to a date to end the Agreement – on the date that is agreed;
    - (iv) if you start to buy electricity for the Premises:
      - (A) from us under a different customer retail contract – on the date that retail contract starts; or
      - (B) from a different Retailer under a different customer retail contract – on the date that Retailer becomes the financially responsible retailer for the Premises;
    - (v) if a different Customer starts to buy electricity for the Premises – on the date that Customer's contract starts;
    - (vi) if the Premises are disconnected and you have not met the requirements in the Rules for reconnection – 10 Business Days from the date of Disconnection, or
    - (vii) in any other circumstances, 20 Business Days after the date on which notice of termination is given by us,
- whichever occurs first.

- (b) If you do not give us safe and unhindered access to the Premises to conduct a final meter reading (where relevant), this Agreement will not end under clause 3.4(a)(i) or clause 3.4(a)(ii) until we have issued you a final bill and you have paid any outstanding amount for the sale of electricity.
- (c) Rights and obligations accrued before the end of this Agreement continue despite the end of the Agreement, including any obligations to pay amounts to us.
- (d) Unless we provide you with prior notice, these Terms and Conditions will continue to apply to a new Energy Plan or any further period of your existing Energy Plan.

### 3.5 Vacating your Premises

- (a) If you are vacating your Premises you may request us to transfer this Agreement to your new Premises. After receiving such a request, we may, at our sole discretion:
  - (i) offer to transfer your existing Energy Plan to the new Premises (including any residual "Fixed Benefit Period" (if any)); or
  - (ii) offer to place you on a new Energy Plan for the new Premises.
- (b) If you are vacating your Premises and you do not accept any offer (if any) provided by us under clause 3.5(a), you must provide us with your forwarding address for your final bill in addition to the notice you give us under clause 3.4(a)(i) of this Agreement.
- (c) 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 for those Premises to you at the forwarding address stated in your notice.
- (d) You will continue to be responsible for charges for those Premises until your Agreement ends in accordance with clause 3.4 of these Terms and Conditions.

## 4. SCOPE OF THIS AGREEMENT

### 4.1 What is covered by the Agreement?

- (a) Under this Agreement, we agree to sell you electricity at your Premises. We also agree to meet other obligations set out in this Agreement and to comply with the Energy Laws.
- (b) In return, you agree:
  - (i) to be responsible for charges for electricity supplied to the Premises until this Agreement ends under clause 3.4 even if you vacate the Premises earlier;
  - (ii) to pay the amounts billed by us under this Agreement; and
  - (iii) to meet your obligations under this Agreement and the Energy Laws.

### 4.2 What is not covered by the Agreement?

This Agreement does not cover the physical connection of your Premises to the distribution system, including the maintenance of that connection and the supply of electricity to your Premises. This is the role of your Distributor under a separate contract called a Customer Connection Contract.

## 5. YOUR GENERAL OBLIGATIONS

### 5.1 Full information

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

### 5.2 Updating information

You must tell us promptly if:

- (a) information you have provided to us changes, including if your billing address changes or if your use of electricity changes (for example, if you start running a business at the Premises); or

- (b) you are aware of any change that materially affects access to your meter or to other equipment involved in providing metering services at the Premises.

### 5.3 Life support equipment

- (a) If a person living or intending to live at your Premises requires life support equipment, you must:
  - (i) register the Premises with us or your Distributor; and
  - (ii) provide Medical Confirmation for the Premises.
- (b) Subject to satisfying the requirements in the Rules, your Premises may cease to be registered as having life support equipment if Medical Confirmation is not provided to us or your Distributor.
- (c) You must provide us or your Distributor with all relevant life support registration forms as soon as possible as this will assist in completing your registration.
- (d) You must tell us or your Distributor if the life support equipment is no longer required at the Premises.
- (e) If you tell us that a person living or intending to live at your Premises requires life support equipment, we must give you:
  - (i) at least 50 Business Days to provide Medical Confirmation for the Premises;
  - (ii) general advice that there may be a Distributor Planned Interruption, Retailer Planned Interruption or unplanned Interruption to the supply of electricity to the Premises;
  - (iii) at least 4 Business Days' notice in writing of any Retailer Planned Interruption to the supply of electricity to the Premises unless we have obtained your explicit consent to the Interruption occurring on a specified date;

- (iv) information to assist you to prepare a plan of action in case of an unplanned Interruption; and
- (v) emergency telephone contact numbers.

### 5.4 Obligations if you are not an owner

If you cannot meet an obligation relating to your Premises under this Agreement because you are not the owner 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.

## 6. 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, guarantee or undertaking, and we make no representation to you, about the condition or suitability of energy, its quality, fitness for purpose or safety, other than those set out in this Agreement.
- (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 electricity.
- (d) We have the right to set off any amount owed by us to you under this Agreement against any amount owed by you to us under this Agreement. Our liability to make any payment to you will be reduced by the extent of any such set off.

## 7. PRICE FOR ENERGY AND OTHER SERVICES

### 7.1 What are our tariffs and Charges?

- (a) The initial tariffs and Charges for the sale of electricity to you under this Agreement, as well as the initial conditions for each tariff and Charge, are set out in your Energy Plan Confirmation contained within your Nectr Welcome Pack.
- (b) Any additional, subsequent or amended tariffs and Charges will be set out in the Fee Schedule. Our Fee Schedule is published on our website and includes your Distributor's charges.
- (c) Different tariffs and Charges may apply to you depending on your circumstances. Any additional, subsequent or amended conditions for each tariff and Charge will be set out in the Fee Schedule.

**Note:** We do not impose any charges for the termination of this Agreement.

### 7.2 Changes to tariffs and Charges

- (a) We may vary your tariffs or Charges or introduce a new Charge by providing you with notice of the variation in accordance with the National Energy Retail Law and the Rules.
- (b) Where we vary your tariffs or Charges, we will (unless legally exempted from doing so):
  - (i) if your Applicable State is New South Wales, provide you with at least 5 Business Days notice before the variation to your tariffs or Charges is to apply to you;
  - (ii) if your Applicable State is Queensland:
    - (A) provide you with at least 10 Business Days notice before any increase to your tariffs or Charges is to apply to you; and
    - (B) provide you with at least 5 Business Days notice before any decrease to your tariffs or Charges is to apply to you; and

- (iii) deliver the notice to you by your preferred form of communication
- (c) If you are on an Energy Plan with a "Fixed Benefit Period", the new Charges will not apply until the "Fixed Benefit Period" expires unless:
  - (i) your meter type changes or your Charges were applied based on incorrect information or assumptions;
  - (ii) you request, and we agree to, a change to your Energy Plan; or
  - (iii) it is required, or we are expressly permitted to do so, by the National Energy Retail Law or the Rules.

### 7.3 Variation of tariff due to change of use

- (a) You must notify us as soon as practicable if there is any change in:
  - (i) the nature of your energy usage at your Premises;
  - (ii) the meter installed at your Premises; or
  - (iii) any other circumstance that may impact on your ability to continue to satisfy the conditions applying to your current category of tariff.
- (b) The category of tariff forming the basis of your Energy Plan and the Charges payable under this Agreement may be varied by us if:
  - (i) you no longer satisfy the conditions applying to that category of tariff;
  - (ii) the corresponding distribution tariff from your Distributor in relation to your Premises is no longer available; or
  - (iii) the required or selected meter type is no longer available.
- (c) If we transfer you to a new tariff, this may result in a variation to your Charges:
  - (i) if you notify us in accordance with clause 7.3(a) – from the date of notification; or

- (ii) if you have not notified us in accordance with clause 7.3(a) – retrospectively from the date the relevant change referred to in clause 7.3(b) occurred.

#### 7.4 Variation of tariff due to new meter installation

Your tariff or Charges may change if your meter is replaced under clause 10.

#### 7.5 Availability of alternative tariffs

- (a) If you think you satisfy the conditions applying to another tariff or type of tariff, you can ask us to review your current circumstances to see whether that tariff or type of tariff can apply to you.
- (b) Depending on the meter configuration and availability at your Premises and the availability of alternative tariffs offered by your Distributor, we may offer you different tariffs for the consumption of energy at your Premises.

#### 7.6 Changes to tariff or type of tariff during a Billing Cycle

If a tariff applying to you changes during a Billing Cycle, we will calculate your next bill on a proportionate basis.

#### 7.7 GST

- (a) Amounts specified in the Fee Schedule from time to time and other amounts payable under this Agreement may be stated to be exclusive or inclusive of GST. Clause 7.7(b) applies unless an amount is stated to include GST.
- (b) Where an amount to be paid by you under this Agreement is payment for a “taxable supply” as defined for GST purposes, to the extent permitted by law, the amount you must pay 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.

## 8. BILLING

### 8.1 General

- (a) We will send a bill to you as soon as possible after the end of each Billing Cycle specified in your Energy Plan and this Agreement.
- (b) We may alter your Billing Cycle by written notice to you provided that the new Billing Cycle is no longer than the maximum period permitted under the Rules.
- (c) We will send the bill:
  - (i) to you at the email address nominated by you; or
  - (ii) to a person authorised in writing by you to act on your behalf at the email address specified by you.
- (d) By providing us with an email address, you agree that we may send a link to your bill by email to that email address, unless we determine that your email address is not valid.

### 8.2 Calculating the bill

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

- (a) the amount of electricity consumed at your Premises during the Billing Cycle (using information obtained from reading your meter or otherwise in accordance with the Rules);
- (b) the amount of fees and charges for any other services provided under or in connection with this Agreement during the Billing Cycle;
- (c) 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;
- (d) the charges payable for services provided by a Metering Coordinator, including attendance fees, installation fees or testing fees; and

- (e) any distribution fees or costs incurred by us in connection with the sale or supply of electricity by us to you.

### 8.3 Estimating the electricity usage

- (a) We may estimate the amount of electricity 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 electricity consumed at your Premises to calculate a bill, we must:
  - (i) clearly state on the bill that it is based on an estimation; and
  - (ii) when your meter is later read, adjust your bill for the difference between the estimate and the electricity 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.
- (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.

### 8.4 Your historical billing information

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

### 8.5 Your electricity consumption information

Upon request, we must give you information about your electricity consumption with us 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;
- (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.

## 9. PAYING YOUR BILL

### 9.1 What you have to pay

You must pay to us the amount shown on each bill by the Pay-By Date. Subject to clause 9.2(c), the Pay-By Date will be no earlier than 10 Business Days from the date on which we issue your bill.

### 9.2 Revised bill following a customer read estimate

- (a) Where the Rules permit you to request an adjusted bill based on a customer read estimate by providing us with the customer read estimate before the due date for payment specified in the bill, we will promptly issue you with an adjusted bill based on the customer read estimate.
- (b) We may reject a customer read estimate provided to us by prompt notice to you if the customer read estimate:
  - (i) is provided to us on or after the due date of payment of the bill; or
  - (ii) is not provided in accordance with the guidance and requirements for a customer read estimate provided by us on our website.
- (c) Where we issue you with an adjusted bill following a customer read estimate, you must pay to us the amount shown on the adjusted bill by no later than 5 calendar days after the due date of your original, unadjusted bill.

### 9.3 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 reminder notice.

### 9.4 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.
- (b) 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 two years.
- (c) 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 at on our website.

## 10. METERS

- (a) 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;
  - (ii) calculating or measuring electricity supplied or taken at the Premises;
  - (iii) checking the accuracy of metered consumption at the Premises; and
  - (iv) replacing meters.

- (b) 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.
- (c) If we or our representatives seek access to the Premises under clause 10(a), we will:
  - (i) comply with all relevant requirements under the Energy Laws;
  - (ii) carry or wear official identification; and
  - (iii) show the identification if requested.
- (d) 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.

## 11. INTERRUPTION TO ELECTRICITY SUPPLY

### 11.1 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 and clause 5.3(e)(iii) does not apply:
  - (i) we may seek your explicit consent to the Interruption occurring on a specified date;
  - (ii) we may seek your explicit consent to the Interruption occurring on any day within a specified 5 Business Day range; or



- (iii) otherwise, we will give you at least 4 Business Days' notice of the Interruption by email, mail, letterbox drop, press advertisement or other appropriate means.

## 11.2 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.
- (b) If you request an explanation 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.

# 12. UNDERCHARGING AND OVERCHARGING

## 12.1 Undercharging

- (a) If we have undercharged you, we may recover the undercharged amount from you. If we recover an undercharged amount from you:
  - (i) we will not charge interest on the undercharged amount; and
  - (ii) 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.
- (b) The maximum amount we can recover from you is limited to the amount that has been undercharged in the nine months

immediately before we notify you, unless the undercharge is your fault, or results from your unlawful act or omission.

## 12.2 Overcharging

- (a) 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.
- (b) 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.
- (c) If you have stopped buying electricity from us, we will use our best endeavours to pay the overcharged amount to you within 10 Business Days.
- (d) 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.

## 12.3 Reviewing your bill

- (a) 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.
- (b) 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.
- (c) 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:
  - (i) the portion of the bill that you do not dispute; or

- (ii) an amount equal to the average of your bills in the last 12 months.

## 13. DISCONNECTION OF SUPPLY

### 13.1 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 give us access to your Premises to read a meter (where relevant) for 3 consecutive meter reads;
- (c) you fail to give us safe and unhindered access to the Premises as required by clause 10 or any requirements under the Energy Laws;
- (d) there has been illegal or fraudulent use of energy at your Premises in breach of clause 15; or
- (e) we are otherwise entitled or required to do so under the Rules or by law.

### 13.2 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).

### 13.3 When we must not arrange Disconnection

- (a) Subject to clause 13.3(b), your Premises may not be disconnected during the following times (**Protected Period**):
  - (i) on a Business Day before 8am or after 3pm;
  - (ii) on a Friday or the day before a public holiday;
  - (iii) on a weekend or a public holiday;
  - (iv) on the days between 20 December and 31 December (both inclusive) in any year; or
  - (v) if you are being disconnected under clause 13.1(a), during an extreme weather event.
- (b) Your Premises may be disconnected within the Protected Period:
  - (i) for reasons of health and safety;
  - (ii) in an Emergency;
  - (iii) as directed by a Relevant Authority;
  - (iv) if you are in breach of the clause your Customer Connection Contract that deals with interference with energy equipment;
  - (v) if you request us to arrange Disconnection within the Protected Period;
  - (vi) 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
  - (vii) where the Premises are not occupied.

## 14. RECONNECTION AFTER DISCONNECTION

- (a) We must arrange for the reconnection of your Premises if, within 10 Business Days of your Premises being disconnected:
  - (i) you ask us to arrange for reconnection of your Premises;

- (ii) you rectify the matter that led to the Disconnection; and
  - (iii) you pay any reconnection charge (if requested).
- (b) We may terminate this Agreement 10 Business Days following Disconnection if you do not meet the requirements in clause 14(a).

## 15. WRONGFUL AND ILLEGAL USE OF ENERGY

### 15.1 Use of energy

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

- (a) illegally use energy supplied to your Premises;
- (b) interfere or allow interference with any energy equipment that is at your Premises except as may be permitted by law;
- (c) use the energy supplied to your Premises or any energy equipment in a manner that:
  - (i) unreasonably interferes with the connection or supply of energy to another Customer; or
  - (ii) causes damage or interference to any third party;
- (d) allow energy purchased from us to be used otherwise than in accordance with this Agreement and the Rules; or
- (e) tamper with, or permit tampering with, any meters or associated equipment.

## 16. NOTICES AND BILLS

- (a) Notices and bills under this Agreement must be sent in writing, unless this Agreement or the National Energy Retail Law and the Rules say otherwise. We may do so personally, by email, by post, or by a message on your bill.

- (b) A notice or bill sent under this Agreement is taken to have been received by you or by us (as relevant):
  - (i) 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; or
  - (ii) on the date it is handed to the party, left at the party's Premises (in your case) or left at one of our offices (in our case); or
  - (iii) on the date 2 Business Days after it is posted.
- (c) 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.
- (d) If it is agreed that any requirement of your Energy Plan is to be met electronically, we will do so in accordance with these Terms and Conditions. You will be recognised as having received the information and be bound by the transaction under the provisions relating to electronic transactions within the relevant legislation and these Terms and Conditions.

## 17. PRIVACY ACT NOTICE

We will use your personal information to provide energy to you and manage our relationship with you and as otherwise permitted by law. We may disclose your personal information to our related companies, agents and contractors to assist in these purposes. This may include disclosures of your personal information to organisations outside Australia including in places such as the United Kingdom, the United States of America, Canada, South Korea and the Philippines.

We may use your personal information to tell you about products or services that we think you might be interested in where you have consented to us doing so, or it is otherwise permitted by law.

We will seek to comply with all relevant privacy legislation in relation to your personal information. You can find our Privacy and Credit Reporting Policy on our website. If you have any questions, you can contact our privacy officer. Our Privacy and Credit Reporting Policy contains information about:

- (a) how to seek access to the personal information we hold about you and seek correction of the information; and
- (b) how to complain about a privacy breach and how we will deal with such a complaint.

## 18. COMPLAINTS AND DISPUTE RESOLUTION

### 18.1 Complaints

If you have a complaint relating to the sale of energy by us to you, or this Agreement 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.

### 18.2 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 Energy & Water Ombudsman NSW, whose contact details you can find on our website.

## 19. FORCE MAJEURE

### 19.1 Effect of Force Majeure Event

If either party to this Agreement is unable to observe or perform on time an obligation under this Agreement because of an event or circumstance outside the reasonable control of that party (**Force Majeure Event**):

- (a) 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
- (b) 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.

### 19.2 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 after becoming aware of the event.

### 19.3 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.

### 19.4 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.

## 20. APPLICABLE LAW

The laws of the State of New South Wales govern this Agreement.

## 21. RETAILER OF LAST RESORT EVENT

If we are no longer entitled by law to sell electricity to you due to a 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 Agreement will come to an end.

## 22. GENERAL

### 22.1 Our obligations

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

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

### 22.2 Varying this Agreement

- (a) We can vary the benefits that apply to you under this Agreement where:
  - (i) we give you 20 to 40 Business Days' notice of the variation; and
  - (ii) you accept the change by not terminating this Agreement.
- (b) We may vary this Agreement with your consent.
- (c) We may also vary this Agreement by notice to you if we need to do so to comply with the Energy Laws, or if otherwise permitted by the Energy Laws.

## 23. DEFINITIONS AND INTERPRETATION

### 23.1 Definitions

**Agreement** means the Nectr Energy Plan Confirmation, these Terms and Conditions and any other document you have entered into with us for the sale of electricity at your Premises;

**Agreement Start Date** means the date on which this Agreement commences, being the date you receive the Energy Plan Confirmation from us;

**Applicable State** means the State or Territory whose Energy Laws regarding the sale and supply of Energy apply to your supply address;

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

**Business Day** means a day other than a Saturday, a Sunday or a public holiday in New South Wales;

**Charges** means the amounts payable by you in respect of:

- (a) energy supplied by us (including supply charges, energy usage charges, Distributor charges, metering charges, taxes or any other fee or charge we otherwise incur from a third party in respect of supplying energy to you); or
- (b) other charges payable by you under this Agreement (including merchant services fees incurred by us from you making a payment by card or any fees for us to arrange metering-related goods or services for you);

**Cooling Off Period** has the meaning given to that term in clause 3.2(a);

**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;

**Designated 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;

**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;

**Distributor Planned Interruption** means an Interruption for:

- (a) the planned maintenance, repair or augmentation of the transmission system; or
- (b) the planned maintenance, repair or augmentation of the distribution system, including planned or routine maintenance of a meter (excluding a Retailer Planned Interruption); or
- (c) the installation of a new connection or a connection alteration;

**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;

**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** means the terms on which you receive any applicable benefits, rewards and discounts when you receive energy supplied by us for a specific Energy Plan Period as set out in the Nectr Energy Plan Confirmation accompanying these Terms and Conditions;

**Energy Plan Period** means the "Fixed Benefit Period" or the "term" of an Energy Plan specified in the Nectr Energy Plan Confirmation accompanying these Terms and Conditions, beginning on the Energy Plan Start Date;

**Energy Plan Start Date** means the day we start supplying energy to you under an applicable Energy Plan;

**Fee Schedule** means a list of fees and Charges relevant to your supply address, which is available at [www.nectr.com.au](http://www.nectr.com.au);

**Force Majeure Event** has the meaning given to that term in clause 19.1;

**GST** has the meaning given in the *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;

**Medical Confirmation** means certification from a registered medical practitioner of the requirement for life support equipment at your Premises;

**Metering Coordinator** means a person registered by the Australian Energy Market Operator who engages in the coordination and provision of metering services at a connection point;

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

**Nectr** means Hanwha Energy Retail Australia Pty Ltd ABN 82 630 397 214, trading as Nectr;

**Nectr Cancellation Notice** means the document provided to you by Nectr setting out your rights to cancel the Agreement under the Australian Consumer Law and the National Energy Retail Law;

**Nectr Welcome Pack** means a package of documents provided to you by Nectr shortly after you entered this Agreement;

**Pay-By Date** means the date for payment set out on the bill or such other date as we agree with you;

**Premises** means the Premises specified as the supply address, and if there is more than one such Premises and as required by context, all of them together or each of them separately;

**Protected Period** has the meaning given to that term in clause 13.3(a);

**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 a person that is authorised to sell energy to Customers;

**Retailer Planned Interruption** means an Interruption that:

- (a) is for the purposes of the installation, maintenance, repair or replacement of your electricity meter;
- (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;

**Small Customer** means:

- (a) a Residential Customer; or
- (b) a business Customer who consumes energy at or below a level determined under the National Energy Retail Law;

**Supply Date** means the date on which we first start supplying electricity to you under this Agreement;

**Terms and Conditions** means the terms and conditions in this document; and

**Transfer Complete Date** means the day on which we become the financially responsible Retailer for energy supplied to your supply address.

## 23.2 Interpretation

In this Agreement, unless the context otherwise requires:

- (a) headings are for reference purposes only and do not affect the interpretation of this Agreement;
- (b) the singular includes the plural and vice versa;
- (c) words denoting any gender include all genders;
- (d) reference to a person includes any other entity recognised by law and vice versa;
- (e) where a word or phrase is defined its other grammatical forms have a corresponding meaning;
- (f) any reference to a party to this Agreement includes its successors and permitted assigns;
- (g) any reference to any agreement or document includes that agreement or document as amended at any time;
- (h) the use of the word 'includes' or 'including' is not to be taken as limiting the meaning of the words preceding or succeeding it; and
- (i) reference to a statute includes all regulations and amendments to that statute and any statute passed in substitution for that statute or incorporating any of its provisions to the extent that they are incorporated.

## 23.3 Interaction between this Agreement and the National Energy Retail Law and the Rules

- (a) If any of the definitions given in clause 23.1 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 to the extent of any inconsistency.
- (b) Terms used in these Terms and Conditions that are not defined in clause 23.1 have the same meanings as they have in the National Energy Retail Law and the Rules.

- (c) If any matter that is required to be included in this Agreement by the National Energy Retail Law or the Rules is not expressly dealt with in the Agreement, it will be incorporated as if it were a term of this Agreement, but only to the extent necessary to satisfy the requirements in the National Energy Retail Law and the Rules.
- (d) If there is any inconsistency between a term of this Agreement and a term incorporated under clause 23.3(c), this Agreement will prevail to the extent of any inconsistency, unless:
  - (i) the National Energy Retail Law or the Rules expressly provide otherwise; or
  - (ii) this would result in that term being rendered void.

#### **23.4 Interaction between these Terms and Conditions and other documents constituting this Agreement**

To the extent of any inconsistency, the documents making up this Agreement take precedence in the following order:

- (a) the Energy Plan;
- (b) these Terms and Conditions;
- (c) the Fee Schedule; and
- (d) any other document, or part of a document, expressly incorporated into this Agreement by reference in these Terms and Conditions.