

# Market Retail Contract Terms and Conditions

May 2021



## OVERVIEW

The Agreement is about the sale to you of Grid Electricity, Solar Electricity and Discharged Stored Electricity, and is a market retail contract under the National Energy Retail Law and the Rules.

The Solar Electricity will be generated by a solar PV system that we will install at your Premises and which will be owned by our related business, Nectr DE.

We will also install a battery at your Premises, which again Nectr DE will own. The battery will usually be charged with Solar Electricity but at some times it may be charged with Grid Electricity. Electricity will be discharged from the battery to meet demand within your Premises, or we may supply that electricity to the Grid.

These Terms and Conditions form part of the Agreement.

Energy Laws and other consumer laws also 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.

More information about this Agreement and related matters is available on our website at [nectr.com.au](https://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 (in these Terms and Conditions, referred to as “we”, “our” or “us”) and Nectr Distributed Energy Pty Ltd ABN 48 638 767 272 (in these Terms and Conditions, referred to as “Nectr DE”), each of Level 25, NorthPoint Tower, 100 Miller Street, North Sydney, New South Wales 2060; and
- (b) you, the Customer named in the Nectr Home Solar + Battery Energy Plan Confirmation (in these Terms and Conditions, referred to as “you” or “your”).

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

### 2.1 When does the Agreement start?

The Agreement commences on the Agreement Start Date.

### 2.2 Important Notice to you: Cooling off

- (a) You can cancel the Agreement without penalty within 10 Business Days from and including the day after you signed or received the Agreement 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.

## 2.3 When will we start selling electricity to you and when will we commence installation of the System?

We will not begin selling electricity to you under the Agreement, and we will not commence installation of the System, until:

- (a) your Cooling Off Period expires unless otherwise agreed by both you and us;
- (b) the Premises are connected to the Grid;
- (c) if you are transferring to us from another Retailer, the Transfer Completion Date; and
- (d) the Preconditions are satisfied or waived.

## 2.4 Preconditions

- (a) The Preconditions are for our benefit and can only be waived by us.
- (b) You must use reasonable endeavours to satisfy the Preconditions prior to the Precondition End Date, as must we.
- (c) If any Precondition has not been satisfied or waived by the Precondition End Date, then we may terminate the Agreement by notice to you, as may you by notice to us.

## 2.5 When does the Agreement end?

Unless you cancel the Agreement during the Cooling Off Period or the Agreement ends earlier under clause 2.4(c) or clause 14, the Agreement will end on the Expiry Date.

## 2.6 On the Expiry Date the System is yours

At the end of the Expiry Date all legal and beneficial ownership of the System, in its then current used condition, transfers from us to you, for free. As soon as practicable after the Expiry Date, we must transfer to you any unexpired manufacturers' warranties for the System (to the extent that we are able to).

# 3. SCOPE OF THIS AGREEMENT

## 3.1 What is covered by the Agreement?

- (a) Under the Agreement, we agree to sell to you the Grid Electricity supplied to the Premises and also to install the System at the Premises and supply and sell to you Consumed Solar or Discharged Stored Electricity.
- (b) In return, you agree:
  - (i) to be responsible for our Charges for Grid Electricity and System Electricity including Consumed Solar or Discharged Stored Electricity until the Agreement ends. To avoid doubt, there is no Charge for any Grid Electricity or Solar Electricity used to charge the battery forming part of the System;
  - (ii) to pay the amounts billed by us under the Agreement; and
  - (iii) to meet your obligations under this Agreement and the Energy Laws.

## 3.2 What is not covered by the Agreement?

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

# 4. YOUR GENERAL OBLIGATIONS

## 4.1 Full information

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

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

### 4.3 Life support equipment

- (a) If a person living or intending to live at the 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, the 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 the 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;

## 5. THE SYSTEM

### 5.1 Title and Risk

- (a) Title to and risk in the Consumed Solar or Discharged Stored Electricity will pass from us to you at the System Connection Point..
- (b) Until such time as you purchase the System from us, we retain all rights, title and interests to, and are entitled to all revenue derived from any Exported Solar or Discharged Stored Electricity (including Feed-in Tariff payments, Green Rights, New Rights and use of the System to provide Ancillary Services or other demand side management services).
- (c) Nothing in the Agreement limits our ability or right:
  - (i) to export any Solar Electricity or Discharged Stored Electricity that is not Consumed Solar or Discharged Stored Electricity to the Grid, as Exported Solar or Discharged Stored Electricity; or
  - (ii) to provide Ancillary Services using the System to AEMO or to offer to sell or to enter into an agreement with any third party for the sale of Ancillary Services, provided the provision of such Ancillary Services does not adversely affect any of your rights under the Agreement or restrict our ability to perform our obligations under the Agreement.
- (d) You must provide all reasonable assistance to us as required to give effect to clause 5.1(b), including:
  - (i) signing all registration and acknowledgement documentation, as required, to ensure that any and all Exported Solar or Discharged

Stored Electricity, Green Rights and New Rights are our property (or our nominee's property);

- (ii) if you are deemed to be the owner of such Exported Solar or Discharged Stored Electricity, Green Rights or New Rights, promptly assign the same to us (or our nominee); and
- (iii) if you receive any other payments in respect of Exported Solar or Discharged Stored Electricity (including for Ancillary Services, Green Rights or New Rights), you must promptly pay them to us (or as directed to our nominee).

## 5.2 No Minimum Output

You acknowledge and agree that:

- (a) the amount of Solar Electricity may vary due to a number of factors including weather conditions;
- (b) we do not guarantee that the System will generate any minimum amount of Solar Electricity at any particular time; and
- (c) we do not warrant or guarantee that the System will be available at any particular time or for any particular period.

## 5.3 Ownership of the System

- (a) Unless you purchase the System from us as provided for in the Agreement:
  - (i) you have no ownership, interest or any other right in the System;
  - (ii) Nectr DE is the beneficial owner of the System and, for Australian tax purposes, entitled (to the extent permitted by Australian law) to a tax deduction against assessable income for any depreciation or other benefits under the applicable federal or state law available as a result of the ownership and operation of the System;
  - (iii) you must not use or access the System and you have no right to possession or custody of the System,

except to the extent we may permit in writing (including as set out in these Terms and Conditions); and

- (iv) you must notify any person who has an interest in the Premises (including potential purchasers) that you do not own, or have any rights to, the System.
- (b) No part of the System is a fixture to the Premises.
- (c) You must allow us to place notices or labels on or adjacent to the System, the Meter and any associated equipment stating that equipment is the personal property of Nectr DE and not yours, and must not obstruct, cover or interfere with any such notice or label (including by not interfering with any branding).

## 5.4 Access

- (a) Subject to this clause 5.4, you grant us and our agents and contractors a licence for the use and enjoyment of the Licensed Area (including access to the Licensed Area) from the Scheduled Installation Date until the System has been deactivated or removed or both by us from the Premises or you purchase it in accordance with the Agreement.
- (b) We will only use the Licensed Area for the Permitted Purpose.
- (c) You also grant us the right to use so much of the Premises adjoining and adjacent to the Licensed Area as is reasonably required for the Permitted Purpose.
- (d) We will try to give you reasonable notice if we need to access the Premises unless we need access urgently to prevent material loss or damage being suffered by us or you. We will try to contact you to arrange a mutually convenient time for us to gain access. However, you must ensure we can access the Premises between 9am and 6pm within 5 Business Days of the date we propose to attend the Premises.
- (e) You must ensure our access to the Premises is safe, convenient and unhindered. However, we occupy and use the Licensed Area at our own risk. We agree

that you are not liable for, and release you from, all damages, liability or costs incurred for damage, loss, injury or death (unless it is caused by your breach of the Agreement or negligence) to us, our property, agents, contractors or employees in connection with our use or enjoyment of the access licence granted under this clause 5.4.

## 5.5 Installation of the System

- (a) We must identify suitable locations to install the System at the Premises. Before we install the System, we will give you a Design Layout showing where the solar panels, inverter, battery and the other parts of the System are located. We will ask you to confirm that the proposed locations for the System are acceptable.
- (b) Once we have agreed on the Design Layout with you, we will provide the System Details that sets out the specifications of the System
- (c) If we cannot agree with you on the Design Layout for the proposed locations for the System within a reasonable time, we may terminate the Agreement under clause 14.2(a)(ii).
- (d) We must assist you in identifying what work (if any) will need to be done before we install the System.
- (e) We will start installing the System at the Premises after giving at least five Business Days' prior written notice to you of the Scheduled Installation Date.
- (f) Subject to clause 5.7(d)(i)(A), we must, at our own cost, complete ourselves or procure the completion of the Installation Works on the Licensed Area of the Premises:
  - (i) in accordance with the Agreement, applicable laws, Good Industry Practice and the Australian Standards; and
  - (ii) materially in accordance with the Design Layout and the System characteristics as set out in the System Details.

- (g) We may modify the Design Layout and the System Details as we, at our sole discretion, may determine, provided that:
  - (i) the changes do not result in a material change to the generating or energy storage capacity of the System or the building footprint, location or height set out in agreed Design Layout; and
  - (ii) we can demonstrate to you that the quality and integrity of the System is equal to or better than the original specification set forth in the System Details.
- (h) If a Force Majeure Event, a Latent Condition or a breach by you of your obligations under the Agreement causes a delay to the critical path for the completion of the Installation Works, we may, in our sole discretion, vary the Scheduled Installation Date to reflect the impact of such delay on the Installation Works.
  - (i) If we cause any damage to the Premises whilst carrying out the Installation Works, we must repair that damage. For the purposes of this clause 5.5(i), we are only liable for, and obliged to repair, damage directly caused by us. You must notify us of the damage as soon as possible (and in any event within 3 months) after the installation of the System. If we determine the damage was not caused by us during the Installation Works, we will charge you the Call Out Fee to cover our costs of attending the Premises.

## 5.6 Connection

- (a) Subject to these Terms and Conditions, we are responsible for the connection of the System to the Premises and to the Grid.
- (b) Unless otherwise permitted by us under the Agreement, you must not do anything to cause the System to be Disconnected from the Grid.
- (c) You acknowledge and agree:
  - (i) that Solar Electricity will supplement Grid Electricity and will not replace it;

- (ii) that we are not liable in any way for the quality or continuity of Grid Electricity; and
- (iii) that you must not install, permit or procure the installation of any electricity generation equipment or energy storage capacity on the Premises except with our prior written consent.

## 5.7 Operation and maintenance of the System

- (a) We will operate and maintain the System. Without limitation, in operating the System, we may change its settings including by remote access, so that:
  - (i) electricity is supplied from the Grid to either the battery forming part of the System or to the Premises;
  - (ii) electricity is supplied from the solar system forming part of the System to the Grid, to the battery or to the Premises; or
  - (iii) electricity is discharged from the battery and supplied either to the Grid or to the Premises. There is also no limitation on the number of times we may charge and discharge the battery
- (b) We will access the Premises for installation, operation and maintenance of the System in accordance with clause 5.4.
- (c) We must cover the costs of operating and maintaining the System. However, you are responsible for the cost of any repair or maintenance that we reasonably determine was caused by you or could have been fixed by us remotely if you had provided reasonable assistance.
- (d) At your own cost, you must:
  - (i) provide us with reasonable assistance, including:
    - (A) signing applications and other documents for building permits or other consents required or necessary for the installation of the System;

- (B) notifying us as soon as reasonably practicable if you believe there is a fault or problem with the System; and
- (C) pruning your trees that would otherwise shade the solar panels forming part of the System; and
- (ii) as requested, provide us with or arrange for us to be provided with:
  - (A) water required for installation and periodic cleaning of the solar panels;
  - (B) access to and use of a wireless broadband network for the operation of monitoring the System and remote access to the System for the purposes of realising and maximising our rights under clause 5.1(b); and
  - (C) sufficient auxiliary power for the installation, maintenance and operation of the System.

## 5.8 Suspension of Operation

- (a) We may shutdown the System or suspend the supply of Solar Electricity and Discharged Stored Electricity to the System Connection Point:
  - (i) for the purpose of undertaking activities to carry out the Permitted Purpose;
  - (ii) during any blackout, network outage or disruption to or affecting the Grid; or
  - (iii) in an emergency situation where the safety of persons is at risk or to perform emergency repairing on the System.
- (b) A suspension under clause 5.8(a) does not constitute a breach of the Agreement, provided that we use commercially reasonable efforts to minimise the period of the suspension.

## 5.9 Your obligations regarding the System

- (a) You must:

- (i) as consideration specifically for the delivery of the System by Nectr DE into your, pay Nectr DE \$1. This amount will be included as a one-off charge in your first bill;
  - (ii) not part with possession of the System;
  - (iii) re-deliver the System to Nectr DE or us and otherwise deal with the System as stipulated in the Agreement.
- (b) Except with our prior consent, you must not and must not allow any other person to:
- (i) access, interfere or tamper with, damage or remove the System or the Meter (for example, you must not allow other electricians to work on the System); or
  - (ii) do anything that interferes with the operation of the System or the Meter.
- (c) This clause 5.9 does not apply to situations where there is a genuine emergency which poses an immediate threat to your property or the safety of a person.
- (d) If you intend to take any action that may interfere with the operation of the System (such as undertaking renovations to the Premises or conducting works on the roof at the Premises):
- (i) you must notify us at least 20 Business Days before taking such action; and
  - (ii) you must not permit any third party to remove the System without our prior written approval, not to be unreasonably withheld or delayed by us.
- (e) If, in our reasonable opinion, the action contemplated under clause 5.9(d) will result in the Design Layout needing to be re-designed or the System Details needing to be changed or both, then such re-work will be carried out by us at your cost.
- (f) You must keep us updated as to the progress of performance of the works referred to in clause 5.9(d).
- (g) If the System is removed then you must notify us as soon as reasonably practical prior to the date when the works will be completed and the System can be re-installed, and you must allow us to re-install the System as soon as reasonably practical following that date. You must pay us the De-Installation Fee for that re-installation.
- (h) You must take reasonable action to prevent other structures or plants from casting shadows over the solar panels forming part of the System including, for example, by pruning your trees and not erecting awnings around the solar panels.

## 6. PRICE FOR ENERGY AND OTHER SERVICES

### 6.1 What are our initial Electricity Prices and Charges?

The initial Electricity Prices and Charges for the sale of electricity to you under the Agreement, including the Grid Electricity Usage rate for Grid Electricity and the System Electricity Usage rate for Consumed Solar or Discharged Stored Electricity, are set out in the Energy Plan Confirmation as are the initial conditions for the Electricity Prices and for each other Charge.

### 6.2 Variations to our Electricity Prices

- (a) Except under clauses 6.2(b) and 6.2(c), we will not vary the Electricity Prices or Charges.
- (b) We may change the Electricity Prices to reflect actual or expected changes to any costs we incur selling you electricity under the Agreement but only where the cost changes arise from a Change in Law and that occurs after the Agreement Start Date.
- (c) We may vary a Charge or introduce a new Charge if the amount of any corresponding charge imposed on us by the Distributor, the Metering Coordinator or any other third party in connection with the supply of Grid Electricity to the Premises changes or if any such third party imposes a new Charge on us. However, unless this arises

from a Change in Law, this does not allow us to vary the Electricity Prices if the Distributor increases the network tariff applicable to the supply of Grid Electricity to the Premises.

### 6.3 Notice of variations to our Electricity Prices and other Charges

If we vary the Electricity Prices or any Charges or introduce a new Charge, we will provide you with advance notice of the variation or new Charge in accordance with the National Energy Retail Law and the Rules

### 6.4 Network tariffs

You acknowledge and agree that, as part of the installation of the System and the Meter, the network tariff category applicable to the supply of Grid Electricity to the Premises may change. We may also want to change the network tariff category later on if doing so will result in a decrease in the costs we incur in selling Grid Electricity to you. You consent to those changes to your network tariff category and authorise us to apply to the Distributor to effect those changes.

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

If any Electricity Price changes during a Billing Cycle, we will calculate your next bill on a proportionate basis.

### 6.6 GST

- (a) Amounts payable under the Agreement may be stated to be exclusive or inclusive of GST. Clause 6.6(b) applies unless an amount is stated to include GST.
- (b) Where an amount to be paid by you under the 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.

## 7. BILLING

### 7.1 General

- (a) We will send a bill to you as soon as possible after the end of each Billing Cycle.
- (b) 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.
- (c) 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.

### 7.2 Bill content

Each bill will set out:

- (a) the amount of Grid Electricity and the amount of Consumed Solar or Discharged Stored Electricity;
- (b) the total Charges for electricity. To avoid doubt, there is no Charge for any Grid Electricity or Solar Electricity used to charge the battery forming part of the System; and
- (c) any other Charges, including any Call Out Fees, Dishonour Fees or De-Installation Fees, that are payable.

### 7.3 Calculating the bill

Bills will be calculated on or will include:

- (a) Charges for the amount of Grid Electricity and Consumed Solar or Discharged Stored Electricity during the Billing Cycle (using information obtained from reading the Meter or otherwise in accordance with the Rules);
- (b) the amount of any other Charges, including any Call Out Fees, Dishonour Fees or De-Installation Fees, incurred during the Billing Cycle;
- (c) any adjustments or other amounts payable under the Agreement; and



- (d) any GST payable by you on any Charges that are payable.

## 7.4 Estimating electricity consumption

- (a) We may estimate the amount of Grid Electricity and Consumed Solar or Discharged Stored Electricity if the Meter cannot be read, if data from the Meter 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 Grid Electricity and Consumed Solar or Discharged Stored Electricity to calculate a bill, we must
  - (i) clearly state on the bill that it is based on an estimation; and
  - (ii) when the Meter is later read, adjust your bill for the difference between the estimate and the actual amount of Grid Electricity and Consumed Solar or Discharged Stored Electricity.
- (c) If the later read of the Meter 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.

## 7.5 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.

## 7.6 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.

## 8. PAYING YOUR BILL

### 8.1 What you have to pay

You must pay to us the amount shown on each bill by the Pay-By Date. Subject to clause 8.3(c), the Pay-By Date will be no earlier than 5 Business Days from the date on which we issue your bill.

### 8.2 Payment Method

Payment to us may be made as per the Payment Method.

### 8.3 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 Pay-By Date 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 Pay-By Date specified in 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 Pay-By Date specified in your original, unadjusted bill.

#### 8.4 Issue of reminder notices

- (a) If you have not paid your bill by the Pay-By Date, we may initiate a payment re-try prior to sending you a reminder notice in accordance with clause 9.3(b).
- (b) If you have not paid your bill by the Pay-By Date (and if relevant, any payment re-try under clause 9.3(a) was unsuccessful), 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.

#### 8.5 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 electricity 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.

## 9. METER

- (a) We will arrange for a Meter to be installed to record the amount of Grid Electricity, the amount of Solar Electricity and the amount of Stored Electricity, including Consumed Solar or Discharged Stored Electricity and Exported Solar.
- (b) You must arrange and pay for the costs of any work required by the Metering Coordinator, the Distributor, your electrician or otherwise in order for us to install the Meter or to allow Solar Electricity and Discharged Stored Electricity to be supplied to the Grid including, without limitation, any costs involved in upgrading the switchboard or the meter board or installing or relocating fuses and switches.
- (c) You acknowledge and agree that:
  - (i) if the Meter is installed externally, it may need to be located within 3 metres of the switchboard and, if the location is exposed to elements, a weatherproof cover may need to be installed over the Meter;
  - (ii) the Meter may require access to a mobile communication network operated by a third party telecommunications provider. If the Meter cannot access the mobile network we may install an extension aerial or discuss other metering options with you; and
  - (iii) we are not responsible for the performance of any telecommunications provider's mobile network and cannot guarantee that it will be uninterrupted or available at any particular time or for any particular period and therefore, affect the performance of the Meter.
- (d) In order for us to help you to optimise the operation of the System, you:
  - (i) acknowledge and agree that the System will monitor your electricity consumption;

- (ii) grant us access to any data produced by the System in monitoring your electricity consumption and usage;
  - (iii) to the extent personal information is included in the data, agree that any such data can be transmitted to us, in accordance with the terms of our Privacy and Credit Reporting Policy.
- (e) We agree to use any data transmitted to us under clause 9(d), for the purposes of performing our obligations and exercising our rights under the Agreement, and where data includes personal information, we will comply with our Privacy and Credit Reporting Policy.
- (f) You must allow us and our authorised representatives safe and unhindered access to the Premises for the purposes of (where relevant):
- (i) reading, testing, maintaining, inspecting or altering the Meter;
  - (ii) calculating or measuring the amount of Grid Electricity, the amount of Solar Electricity and the amount of Stored Electricity including Consumed Solar or Discharged Stored Electricity and Exported Solar;
  - (iii) checking the accuracy of the Meter; and
  - (iv) replacing the Meter.
- (g) We will use our best endeavours to ensure that the Meter is read as frequently as is needed to prepare your bills, consistently with the metering rules and in any event at least once every 12 months.
- (h) If we or our representatives seek access to the Premises under clause 9(f), 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.
- (i) If we propose to replace the Meter we must give you a notice with the right to elect not to have the Meter replaced unless:
    - (i) the Meter is faulty or sample testing indicates it may become faulty; or
    - (ii) you have requested or agreed to the replacement of the Meter.

## 10. INTERRUPTION TO GRID AND SOLAR ELECTRICITY SUPPLY

### 10.1 Retailer may arrange Retailer Planned Interruptions (maintenance, repair etc.)

- (a) We may arrange Retailer Planned Interruptions to the supply of electricity to the Premises where permitted under the Energy Laws for the purpose of the installation, maintenance, repair or replacement of the Meter.
- (b) If your electricity supply will be affected by a Retailer Planned Interruption arranged by us and clause 4.3(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.

### 10.2 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.

- (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.

## 11. UNDERCHARGING AND OVERCHARGING

### 11.1 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.

### 11.2 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.

### 11.3 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 reading of or data from the Meter or for a test of the Meter in reviewing the bill. However, you may be required to pay for the cost of the check or test, if the check or test shows that the Meter or data from the Meter was not faulty or incorrect.
- (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.
- (d) We may also review your bill from time to time. If we find any material error we must issue you with a re-stated bill.
- (e) Any review of your bill under this clause 11.3 does not impact the timing of issue of a bill for the next Billing Cycle or the Pay-By Date for that next bill

## 12. DISCONNECTION OF GRID, SOLAR AND STORED ELECTRICITY SUPPLY

### 12.1 When can we arrange for Disconnection?

Subject to us satisfying the requirements in the Rules, we may arrange for the Disconnection of the 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 the Premises to read the Meter (where relevant) for 3 consecutive Meter reads;
- (c) you fail to give us safe and unhindered access to the Premises as required by the Agreement or any requirements under the Energy Laws;
- (d) there has been illegal or fraudulent use of electricity at the Premises in breach of clause 17; or
- (e) we are otherwise entitled or required to do so under the Rules or by law.

### 12.2 Notice and warning of Disconnection

Before Disconnecting the 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 the 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 electricity at the Premises or where there is an Emergency or health and safety issue).

### 12.3 When we must not arrange Disconnection

- (a) Subject to clause 12.3(b), the 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 12.1(a), during an extreme weather event.
- (b) The Premises may be Disconnected with(i)
  - (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 electrical equipment;
  - (v) if you request us to arrange Disconnection within the Protected Period;
  - (vi) if the 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 is not occupied.

### 12.4 Reconnection after Disconnection

We must arrange for the Reconnection of the Premises if, within 10 Business Days of the Premises being Disconnected:

- (a) you ask us to arrange for Reconnection of the Premises;
- (b) you rectify the matter that led to the Disconnection; and
- (c) you pay any Reconnection charge (if requested).

## 13. SELLING OR VACATING THE PREMISES

- (a) If you intend to sell or vacate the Premises, you must give us a notice under clause 14.1(a)(i) and, in that notice, you must:
  - (i) include a forwarding address for your final bill; and
  - (ii) elect between transferring the Agreement to the purchaser or new occupant of the Premises and buying the System.
- (b) If in a notice under clause 13(a):
  - (i) you elect to transfer the Agreement, then, if the purchaser or new occupant agrees to the transfer and they meet our Eligibility Requirements, we will transfer the Agreement to the purchaser or new occupant by way of Deed of Novation. You must pay us the reasonable costs incurred in transferring the Agreement to the purchaser or new occupant. You must also procure that the purchaser or new occupant completes the Deed of Novation; or
  - (ii) you elect to transfer the Agreement but the purchaser or new occupant does not agree to the transfer or they do not meet our Eligibility Requirements, or you elect to buy the System, you must buy the System in accordance with clause 14.5.
- (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 the Meter on that date) and send a final bill for those Premises to you at the forwarding address stated in your notice.

## 14. ENDING THE AGREEMENT EARLY

### 14.1 When can you end the Agreement?

- (a) You may end the Agreement at any time:

- (i) by giving us 20 Business Days' notice at any time prior to the Expiry Date; or
  - (ii) by giving us notice if we are in breach of the Agreement and we fail to remedy that breach within 30 Business Days after receiving that notice.
- (b) If you end the Agreement under clause 14.1(a)(i) then you must purchase the System and you will be deemed to have given a notice under clause 14.5(a) on the day the Agreement ends. If you end the Agreement under clause 14.1(a)(ii), then you must purchase the System and you will be deemed to have given a notice under clause 14.5(a) on the day the Agreement ends unless, in your notice under clause 14.1(a)(ii), you require us to remove the System (at our cost) in which case clause 14.6 applies.

### 14.2 When can we end the Agreement?

- (a) By notice to you, we can terminate the Agreement:
  - (i) at any time before the Selling Start Date if:
    - (A) we, acting reasonably, assess that you do not meet our Eligibility Requirements; or
    - (B) you are transferring to us from another Retailer and due to difficulties accessing the Premises we cannot initiate the steps required for us to become the financially responsible Retailer for Grid Electricity supplied to the Premises;
  - (ii) if we are unable to agree with you on the location to install the System;
  - (iii) if following commencement of the Installation Works, we encounter a Latent Condition and the rectification of the Latent Condition would substantially delay or increase the cost of the Installation Works;
  - (iv) you have provided any false or misleading financial or other information to satisfy the Eligibility Requirements;

- (v) if you sell or vacate the Premises and the Agreement is not transferred to the purchaser or new occupant of the Premises;
- (vi) you take any action that interferes with the operation of the System (such as undertaking renovations to the Premises or conducting works on the roof at the Premises) and as a result of that action either no electricity is generated by the System or stored by the System for 90 days;
- (vii) if, in our reasonable opinion, we assess that you no longer meet our Eligibility Requirements;
- (viii) you assign, transfer, encumber, sublet, sell or otherwise create security over the Agreement or any part of the System without our consent
- (ix) you are no longer a Small Customer;
- (x) if the Premises are Disconnected and 10 Business Days after the Disconnection you have not met the requirements in clause 12.4; or
- (xi) subject to the Rules:
  - (A) if you are in breach of the Agreement and you fail to remedy that breach within 30 Business Days after receiving notice from us to remedy; or
  - (B) if you fail to pay three bills by their Pay-By Date in any 12 month period.

- (b) If the Agreement is terminated under clause 14.2(a)(iii) after the System Start Date we will remove the System and you must pay us the De-Installation Fee for the removal, in which case clause 14.6 applies.
- (c) If the Agreement is terminated under any of clauses 14.2(a)(iv) to 14.2(a)(xi) (inclusive) after the System Start Date, then you must purchase the System and you will be deemed to have given a notice under clause 14.5(a) on the day the Agreement ends.

- (d) You acknowledge that amounts payable under clause 14.2(b) are a genuine pre-estimate of the damage and loss we would suffer if the Agreement is terminated early.

### 14.3 When does the Agreement end automatically?

- (a) The Agreement ends automatically:
  - (i) if you start to buy electricity for the Premises:
    - (A) from us under a different customer retail contract – on 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;
  - (ii) if a different Customer starts to buy electricity for the Premises – on the date that Customer’s contract starts; or
  - (iii) a RoLR Event occurring in relation to us.
- (b) If the Agreement is terminated under clause 14.3(a) after the System Start Date, then you must pay the System Buyout Price as at the date of termination.

### 14.4 Other rights to end the Agreement - events outside of our control

- (a) If we are affected by a Force Majeure Event exceeding three (3) consecutive months, we may terminate the Agreement immediately by providing written notice to you as may you by providing written notice to us.
- (b) If the Agreement is terminated under clause 14.4(a), then you must purchase the System and you will be deemed to have given a notice under clause 14.5(a) on the day the Agreement ends unless before the Agreement ends you require us to remove the System (at our cost) in which case clause 14.6 applies.

## 14.5 Buy-out of the System

- (a) You may elect to purchase the System under this clause 14.5 by notifying us in writing that you wish to purchase the System.
- (b) If you give or are deemed to have given a notice under clause 14.5(a):
  - (i) we will issue you an invoice for the System Buyout Price as at the date of your notice within 5 Business Days; and
  - (ii) you must pay the us that System Buyout Price within 20 Business Days of receiving that invoice.
- (c) If you purchase the System in accordance with clause 14.5(b):
  - (i) we must transfer to you all legal and beneficial ownership of, and (to the extent that we are able to) any unexpired manufacturers' warranties for, the System, as soon as practicable (but, in all cases, no earlier than the day after the end of the Agreement) after we have received all amounts payable by you under the Agreement; and
  - (ii) you are purchasing the System in its then current used condition and you are taken to have had the opportunity to fully inspect and assess the condition of the System prior to purchase.
- (d) Except where you are deemed to have given a notice under clause 14.5(a), the Agreement terminates upon performance of our obligations, and of yours, under this clause 14.5.

## 14.6 Removing the System

Where we remove the System under the Agreement:

- (a) we are not liable to repair, restore or otherwise fix, or bear the cost of, any Minor Damage to the Property, howsoever caused or created; and

- (b) we must clean up after ourselves when we remove the all or part of the System.

## 15. COMPLIANCE WITH LAWS

### 15.1 Authorisations and compliance with laws

We are responsible for complying with, or ensuring our agents and contractors comply with, all legislation and Government Body requirements applicable to the Agreement, including, at all times, health and safety laws and holding any relevant national or state permit, licence or exemption required to install, operate and maintain the System and sell electricity to you under the Agreement.

### 15.2 Your obligation to assist

You must do all things reasonably requested by us, including signing all registration and acknowledgement documentation, as required, to enable us to comply with our obligations under the Agreement.

## 16. LIABILITY

### 16.1 Our liability to you

- (a) The quality and reliability of the supply of Grid Electricity 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 Grid 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:
  - (i) the System, and its quality, fitness for purpose and safety;
  - (ii) the condition or suitability of Grid Electricity, Solar Electricity or Stored Electricity or their quality, fitness for purpose or safety;



- (iii) services we provide to you in connection with the System, Grid Electricity, Solar Electricity and Stored Electricity and the Agreement; and
  - (iv) savings calculation estimates, other than those set out in the Agreement.
- (c) Subject to the applicable consumer protection legislation, to the extent permitted by law, we are not liable to you for any loss or damage of any kind in connection with or arising out of the Agreement, except to the extent we cause that loss or damage by our wilful or negligent act or omission and up to an amount equal to the System Buyout Price as at the date to which the relevant liability relates.
- (d) We accept liability to the extent it cannot be excluded, restricted or modified under any non-excludable applicable laws.
- (e) 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 electricity to the Premises, which includes any loss or damage you suffer as a result of the defective supply of electricity.
- (f) We have the right to set off any amount owed by us to you under the Agreement against any amount owed by you to us under the Agreement. Our liability to make any payment to you will be reduced by the extent of any such set off.

## 16.2 Your liability to us

Subject to clause 16.3, you are liable to us for the reasonable loss or damage we suffer due to a third party making a claim against us in connection with or arising out of your:

- (a) breach of the Agreement;
- (b) negligence; or
- (c) use of electricity supplied by the System after ownership of the System passes to you,

except that you are not liable to us under this clause 16.2 to the extent such loss or damage is caused by our negligence or breach of this Agreement.

## 16.3 Consequential loss etc.

To the extent permitted by law, we are not liable to you, and you are not liable to us, for any lost profits, anticipated savings or any indirect or consequential loss of any kind. This does not limit our right to recover any amounts under clause 14.

## 16.4 Joint and several liability

If you entered into the Agreement with another person, you are individually and jointly liable with that person for performing the obligations set out in the Agreement.

## 16.5 Insurance

- (a) We must ensure that any contractors we use are appropriately insured and that the System is insured against accidental damage (including for fire and weather related events) and theft for the duration of the Agreement.
- (b) You must maintain insurance, at your own expense, for the Premises and general liability insurance.

## 17. WRONGFUL AND ILLEGAL USE OF ELECTRICITY

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

- (a) illegally use electricity supplied to the Premises;
- (b) interfere or allow interference with any electrical equipment that is at the Premises except as may be permitted by law;
- (c) use the electricity supplied to the Premises or any electrical equipment in a manner that:
  - (i) unreasonably interferes with the connection or supply of electricity to another Customer; or

- (ii) causes damage or interference to any third party;
- (d) allow electricity purchased from us to be used otherwise than in accordance with the Agreement and the Rules; or
- (e) tamper with, or permit tampering with, the System or the Meter or associated equipment

## 18. NOTICES AND BILLS

### 18.1 Effect of Force Majeure Event

- (a) Notices and bills under the Agreement must be sent in writing, unless the 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 the 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.

## 19. SECURITY INTERESTS, PRIVACY AND CREDIT

### 19.1 Personal Property Security Register

- (a) You acknowledge and agree that we or Nectr DE may register or grant to a third party a security interest in the System or the Agreement at any time. You must not create any security interest (including mortgage, charges or liens) over the System for the duration of the Agreement.
- (b) You must assist us with anything we consider reasonably necessary to fully secure our or Nectr DE's rights under the Agreement or Nectr DE's security interest in the System including registering a financing statement on the PPSA register in relation to Nectr DE's security interest in the System.
- (c) Except where required by section 275(7) of the PPSA, information of the kind mentioned in section 275(1) of the PPSA must not be disclosed either by you or by us or Nectr DE.
- (d) In this clause 19.1, 'financing statement', 'register', and 'security interest' have the meanings given to them in the PPSA.
- (e) You acknowledge and agree that in certain circumstances a third party may access the Premises to deactivate, remove or dismantle the System for the purpose of enforcing its interest or any security interest in the System.

### 19.2 Privacy and credit reporting

- (a) We may collect, use, hold and disclose your personal and credit-related information (including metering data) to sell electricity to you and manage our relationship with you and also where otherwise required or permitted under applicable laws or as set out in our Privacy and Credit Reporting Policy, which is available on our website.
- (b) 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, Hong Kong and the Philippines.

- (c) 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.

## 20. COMPLAINTS AND DISPUTE RESOLUTION

### 20.1 Complaints

If you have a complaint relating to the sale of electricity by us to you, or the 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.

### 20.2 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 in the state in which the Premises are located, whose contact details you can find on our website.

## 21. FORCE MAJEURE

### 21.1 Effect of Force Majeure Event

If either you or we are unable to observe or perform on time an obligation under the Agreement because of a 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) as the affected party, you or we must use its best endeavours to give the other prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which relevant obligations are affected and the steps being taken to remove, overcome or minimise those effects.

### 21.2 Deemed prompt notice

If the effects of a Force Majeure Event affecting us 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.

### 21.3 Obligation to overcome or minimise effect of Force Majeure Event

If you claim a Force Majeure Event or we do then, as the affected party, you or we must use best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

### 21.4 Settlement of industrial disputes

Nothing in this clause 21 requires either you or us to settle an industrial dispute that constitutes a Force Majeure Event in any manner other than the manner preferred by you or by us as the affected party.

## 22. APPLICABLE LAW

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

## 23. 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 designated Retailer for the RoLR Event and the Agreement will come to an end.

## 24. GENERAL

### 24.1 Entire understanding

The Agreement is the entire agreement and understanding between you and ourselves on everything connected with the subject matter of the Agreement and supersedes any prior agreement, correspondence, documentation or discussion on anything connected with that subject matter.

### 24.2 Invalid or unenforceable provisions

If a provision of the Agreement is invalid or unenforceable it is to be read down or severed to the extent of the invalidity or unenforceability.

### 24.3 Assignment, novation and subcontracting

- (a) You may not assign, transfer or novate the Agreement without our consent (which we must not unreasonably withhold).
- (b) We may assign, transfer or novate the Agreement to any of our related bodies corporate or to any other third party including, without limitation, a bank or third party financier. We must notify you of any assignment, transfer or novation.
- (c) We may appoint one or more agents or contractors from time to time to perform some or all of our obligations or to exercise some or all of our rights under the Agreement, including Nectr DE. We remain liable for the performance of our obligations under the Agreement, even if we appoint an agent or contractor.

### 24.4 Varying the Agreement

- (a) We can vary this Agreement or the benefits that apply to you under this Agreement where:
  - (i) we give you between 20 and 40 Business Days' written notice of the variation before the variation takes effect; and
  - (ii) you accept the change by not terminating this Agreement.
- (b) In addition, we may vary this Agreement immediately by written notice to you:
  - (i) to make a change that you requested or consented to;
  - (ii) where we need to do so to comply with the Energy Laws;
  - (iii) to make an administrative or typographical change;
  - (iv) to make the terms of this Agreement more favourable to you; or
  - (v) if otherwise permitted by the Energy Laws.

### 24.5 After the Agreement ends

- (a) Rights and obligations accrued before the end of the Agreement continue despite the end of the Agreement, including any obligations to pay amounts to us.
- (b) If despite the Agreement ending we remain the financially responsible Retailer for the Premises without any customer retail contract with a Customer other than you, then, despite the Agreement ending, you remain liable to pay us for any electricity you consume at prices equivalent to those under our then lowest cost generally available plan applicable to customers like you.
- (c) Clauses 2.6, 5.4, 5.9, 9(f), 11, 14.5, 14.6, 16, 20 and 22 and this clause 24.5 survive termination or expiry of this Agreement.

## 25. DEFINITIONS AND INTERPRETATION

### 25.1 Definitions

In these Terms and Conditions and also in the other documents making up the Agreement:

**AEMO** means Australian Energy Market Operator Limited ABN 94 072 010 327 or any other entity that operates the national electricity market;

**Agreement** means our customer retail contract with you for the sale of Grid Electricity and Consumed or Discharged Stored Electricity at the Premises, made up of:

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

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

**Ancillary Services** has the meaning given in the National Electricity Rules;

**Australian Standards** mean all applicable Australian Standards, including:

- (a) AS/NZS 3000, Wiring Rules;
- (b) AS/NZS 1768, Lightning protection;
- (c) AS 4777, Grid connection of energy systems via inverters (only if grid connected);
- (d) AS/NZS 5033, Installation of photovoltaic (PV) arrays; and
- (e) AS/NZS 1170.2, Structural design actions, Part 2: Wind actions;
- (f) AS/NZS 5139, Electrical installations – Safety of battery system for use with power conversion equipment
- (g) AS/NZS 3008 Electrical Installations – Selection of cables

**Billing Cycle** means the regular recurrent period for which you receive a bill from us as specified in the Energy Plan Confirmation;

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

**Call Out Fee** means the call out fee specified in the Energy Plan Confirmation;

**Change in Law** means the imposition of, change in (or change in application or official interpretation of) or repeal of, any binding legal requirement including any law, act, regulation, order, award, proclamation, mandatory code or decision or direction of any Government Body;

**Charges** means:

- (a) electricity usage charges and daily supply charges that are based on the Electricity Prices and are payable by you for the electricity we sell you;
- (b) other amounts we charge to recover from you charges imposed on us by the Distributor, the Metering Coordinator or another third party in connection with the Grid Electricity we sell you;
- (c) the Call Out Fee, the De-Installation Fee and the Dishonour Fee;
- (d) merchant services fees incurred by us from you making a payment by card; and
- (e) other fees, charges or other amounts detailed elsewhere in these Terms and Conditions or in the Energy Plan Confirmation or notified by us under clause 6.3;

**Consumed Solar or Discharged Stored Electricity** means Solar Electricity or Discharged Stored Electricity that you consume at the Premises;

**Cooling Off Period** has the meaning given to that term in clause 2.2(a);

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

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

**Deed of Novation** means a deed to be completed between a purchaser or new occupant of the Premises, you and us whereby the purchaser or

new occupant assumes all of your rights and obligations under the Agreement on and from the date you sell or vacate the Premises;

**De-Installation Fee** means the de-installation fee specified in the Energy Plan Confirmation;

**Design Layout** means the design layout of the System, including the metering and wiring arrangements of the System Connection Point at the Premises;

**Discharged Stored Electricity** means electricity that is discharged from the battery forming part of the System;

**Disconnection** means an action to prevent the flow of any or all of Grid Electricity, Solar Electricity and Discharged Stored Electricity to the Premises, but does not include an Interruption, and Reconnection has a corresponding meaning;

**Dishonour Fee** means the dishonour fee specified in the Energy Plan Confirmation;

**Distributor** means the person who operates the Grid;

**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 Grid, including planned or routine maintenance of the Meter (excluding a Retailer Planned Interruption); or
- (c) the installation of a new connection or a connection alteration;

**Electricity** means electric energy and includes any or all of Grid Electricity, Solar Electricity and Stored Electricity as the context requires;

**Electricity Prices** means the prices for electricity specified in the Energy Plan Confirmation and includes the Grid Electricity Usage rate as the price for Grid Electricity and the System Electricity Usage rate as the price for Consumed Solar or Discharged Stored Electricity;

**Eligibility Requirements** means the requirements and criteria specified as such in the Energy Plan Confirmation;

**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 Grid, and other electricity distribution network or the transmission system, or that destroys or damages, or threatens to destroy or damage, any property;

**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 Nectr Home Solar + Battery Energy Plan the terms of which are set out in the Energy Plan Confirmation;

**Energy Plan Confirmation** means the Nectr Home Solar + Battery Energy Plan Confirmation contained within your Nectr Welcome Pack;

**Expiry Date** means the expiry date specified in the Energy Plan Confirmation;

**Exported Solar or Discharged Stored Electricity** means Solar Electricity or Discharged Stored Electricity that is supplied from the Premises to the Grid;

**Feed-in Tariff** means a feed-in tariff or similar payment that may be available as a result of Exported Solar or Discharged Stored Electricity;

**Force Majeure Event** means any event that:

- (a) either you or we as the affected party could not reasonably have provided against before entering into the Agreement;
- (b) having arisen, the affected party could not have reasonably avoided or overcome;
- (c) is not substantially attributable to the affected party; and
- (d) renders the affected party unable to comply totally or partially with its obligations under the Agreement,

including without limitation:

- (e) war, hostilities (whether war be declared or not), invasion, act of foreign enemies, mobilization, requisition, embargo, or any trade import/export embargo affecting the free flow of goods and services to or from Australia;
- (f) rebellion, terrorism, sabotage by persons other than the affected party's personnel, revolution, insurrection, military or usurped power, or civil war;
- (g) riot, commotion, environmental protest, disorder, strike or lockout (except strikes of employees or subcontractors of the Affected Party or lockouts by the affected party);
- (h) munitions of war, explosive materials, ionising radiation or contamination by radio-activity, except as may be attributable to the affected party's use of such munitions, explosives, radiation or radio-activity;
- (i) natural catastrophes such as earthquake, hurricane, typhoon or volcanic activity;
- (j) any act of God, the effect of any natural element, lightning, fire, earthquake, cyclone or any natural disaster;
- (k) epidemic or pandemic, or government shutdowns or quarantines as a result thereof;
- (l) the presence of any hazardous waste or materials on, above, or under the Premises or rights of access to the Premises; and
- (m) ionising radiation, or contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly;

**Good Industry Practice** means practices followed when work or services are undertaken:

- (a) in a sound and workmanlike manner;
- (b) with due care and skill expected of an experience person performing similar works or services on a similar premise to a similar System;

- (c) with due expedition and without unnecessary or unreasonable delays;
- (d) in accordance with applicable laws, authorisations and Australian Standards; and
- (e) in accordance with applicable industry standards and practice including the guidelines produced by the Clean Energy Council (as amended from time to time);

**Government Body** means any Commonwealth, state, territory, regional and local government or other regulatory authority, body or agency, and any court or tribunal or statutory corporation or any employee or agent of any of them;

**Green Rights** means any rights, entitlements, credits, offsets, allowances, deductions, benefits or certificates of any kind (including, any renewable energy certificates created in accordance with the Renewable Energy (Electricity) Act 2000 (Cth)), that:

- (a) relate to greenhouse gas emissions or low-emission or renewable energy;
- (b) are capable of being obtained by or conferred on either you or us, or to which either you or we are or become entitled; and
- (c) relate to the System, Solar Electricity, Discharged Stored Electricity, Exported Solar or Discharged Stored Electricity or Consumed Solar;

**Grid** means the electricity distribution network to which the Premises is connected;

**Grid Electricity** means electricity that is supplied from the Grid to the Premises;

**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 any or all of Grid Electricity, Solar Electricity and Discharged Stored Electricity, but does not include Disconnection;

**Installation Works** means the works relating to the engineering, design, procurement, supply, construction, connection, testing and commissioning of the System;

**Latent Conditions** means the physical conditions at the Premises and its near surrounds which could not have been foreseen by a reasonable contractor at the Agreement Start Date having carried out all necessary investigations including, without limitation, the presence of asbestos or structural, electrical or mechanical problems with the Premises;

**Licensed Area** means the area at the Premises where the System (including wires and all other supporting infrastructure) is, or is to be, installed, as determined in agreement with you before the commencement of the Installation Works;

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

**Meter** means the smart electricity meter or meters and related metering installation used to measure Grid Electricity, Solar Electricity and Stored Electricity including Exported Solar or Discharged Stored Electricity and Consumed Solar. This is not your existing electricity meter;

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

**Minor Damage** includes, without limitation:

- (a) any holes, cracks, leaks in the roof or any walls caused by removal of the System;
- (b) aesthetic damage such as scratching or fading of the roof or walls; and
- (c) ordinary fair wear and tear of the Premises;

**National Electricity Rules** or **NER** means the National Electricity Rules published under the NEL;

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

**Nectr Cancellation Notice** means the document provided to you by us 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 us shortly after you entered the Agreement;

**NEL** means the National Electricity Law set out in the schedule to the National Electricity (South Australia) Act 1996 (SA), as implemented in the State or Territory in which the Premises is located;

**New Rights** means any rights, entitlements, credits, offsets, allowances, benefits or certificates of any kind, other than Green Rights, whether present or future and whether tradeable or otherwise, that may be created by or are referable to the System, Solar Electricity, Discharged Stored Electricity, Consumed Solar or Discharged Stored Electricity or Exported Solar which did not exist on the Agreement Start Date, including those which arise (whether or not solely) as a result of or in connection with or which relate to or are associated with the provision of services from the System to support the secure and reliable operation of the Grid or other parts of the national grid (as defined in the NER);

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

**Payment Method** means the payment method specified in the Energy Plan Confirmation;

**Permitted Purpose** means the Installation Works and the operation and maintenance of the System including, without limitation, installing, constructing, commissioning, operating, monitoring, repairing, maintaining, upgrading, decommissioning, dismantling and removing the System;

**PPSA** means the Personal Property Securities Act 2009 (Cth);

**Preconditions** means the Preconditions specified in the Energy Plan Confirmation;

**Preconditions End Date** means the date specified as such in the Energy Plan Confirmation;

**Premises** means the premises at the supply address specified in the Energy Plan Confirmation;



**Protected Period** has the meaning given to that term in clause 12.3(a);

**Relevant Authority** means any person or body who has the power under law to direct us, including AEMO and State or Federal Police;

**Residential Customer** means a person who purchases electricity principally for personal, household or domestic use at their Premises;

**Retailer** means a person that is authorised to sell electricity to Customers;

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

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

**Selling Start Date** means the date on which we first start selling electricity to you under the Agreement;

**Small Customer** means:

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

**Solar Electricity** means electricity that is generated by the System;

**Scheduled Installation Date** means the date we organise with you to install, or to begin to install, the System at the Premises;

**Stored Electricity** means electricity that is stored in the battery forming part of the System having been supplied from either the Grid or the solar PV system also forming part of the System, and includes Discharged Stored Electricity as the context requires;

**System** means the solar PV system and battery specified in the Energy Plan Confirmation and includes the solar panels, inverter, all cabling, mounts, other associated plant or equipment;

**System Buyout Price** as at any day means the System Buyout Price for that day calculated under the Energy Plan Confirmation;

**System Connection Point** means the point of connection between the System and the Premises;

**System Details** means the system details provided in accordance with clause 5.5(b);

**System Start Date** means the date the System, once installed and commissioned, commences supplying electricity to the System Connection Point and following satisfaction or waiver of the Preconditions;

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

**Transfer Completion Date** means the day on which we become the financially responsible Retailer for Grid Electricity supplied to the Premises.

## 25.2 Interpretation

In the Agreement, unless the context otherwise requires:

- (a) headings are for reference purposes only and do not affect the interpretation of the 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 you or to us includes your or our 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.

### **25.3 Interaction between the Agreement and the National Energy Retail Law and the Rules**

- (a) If any of the definitions given in clause 25.1 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 25.1 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 the 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 the 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 the Agreement and a term incorporated under clause 25.3(c), the 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.

### **25.4 Interaction between these Terms and Conditions and other documents**

#### **constituting the Agreement**

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

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

