

Ref:
Choose an item.

NEGOTIATED CONNECTION CONTRACT

between

Distributor

and

Customer

NEGOTIATED CONNECTION CONTRACT

This Contract is made

between

the **Distributor** named item 1 of Schedule 1 of this Contract (the "Distributor"); and

the **Customer** named in item 1 of Schedule 1 of this Contract (the "Customer").

Recitals

The Distributor has offered and the Customer has accepted the Distributor's offer to construct the Works in accordance with this Contract. The offer is made on the basis of the least cost technically acceptable method of carrying out the Works.

OPERATIVE PROVISIONS

1. DEFINITIONS & INTERPRETATIONS

1.1 Definitions

In this Contract, unless a contrary intention appears:

Actual Electricity Consumption	means the electricity consumption (MWh) measured at the Connection Point in each SF Year
Anticipated Electricity Consumption	means the electricity consumption (MWh) that the Distributor estimates will be measured at the Connection Point in each SF Year as specified in item 16 of Schedule 1
Agreement for Lease	means an agreement for lease or sub-lease (as applicable) in favour of the Distributor in the form attached as Annexure A (if any)
Agreement to Grant an Easement	means an agreement to grant a registered easement in favour of the Distributor in the form attached as Annexure A (if any)
Business Day	means a day that is not a Saturday, Sunday or public holiday in Melbourne, Victoria
Charges	means the charges to be paid by the Customer in accordance with clause 5 and specified in item 8 of Schedule 1, including any additional charges as may be notified by the Distributor in accordance with clause 4.4 and clause 5
Code	means any code, order, or other instrument applying from time to time to the Victorian region of the National Electricity Market,

	whether pursuant to statute, an order or certification of the ESC or otherwise
Commencement Date	means the date this Contract is executed by both parties
Completion Date	means the date specified in item 13 of Schedule 1 for completion of the Works
Connection Point	means the point of supply specified in item 12(b) of Schedule 1
Construction Design	means the plans and instructions describing the Works
Construction Program	means the indicative timeframe for design and construction of the Works prepared by the Distributor in accordance with clause 4.2 and as specified in item 13 of Schedule 1
Contamination	means the presence of waste, a chemical or other substance (including asbestos and asbestos-containing material) on or under the surface of land (including buildings or structures affixed to the land and any water or groundwater) where the waste, chemical or substance is present in a concentration above the background level
Customer's Responsible Officer	means the person specified in item 11 of Schedule 1
Customer Works	means the works to be completed by the Customer specified in item 15 of Schedule 1
Distributor's Responsible Officer	means the person specified in item 10 of Schedule 1
Deemed Distribution Contract	means the Distributor's Deemed Distribution Contract under section 40A of the <i>Electricity Industry Act (Vic)</i> 2000
Drawing	means the conceptual design of the Works (if any) set out in Schedule 2
Electricity Distribution Code of Practice	means the code of practice of that name issued by the ESC pursuant to the <i>Electricity Industry Act (Vic)</i> 2000
Electricity Law	means the Codes, the <i>Electricity Industry Act (Vic)</i> 2000 and regulations under that Act, the <i>Electricity Safety Act (Vic)</i> 1998 and regulations under that Act, the <i>Essential Services Commission Act (Vic)</i> (2001) and regulations and determinations under that Act, the <i>National Electricity (Victoria) Act (Vic)</i> 2005 and the National

	Electricity Law, the Deemed Distribution Contract and any other law, statute, regulation, proclamation, order in council, direction, tariff, guideline or standard which can be enforced by law or by a regulatory authority against a participant in the Victorian region of the National Electricity Market
Embedded Generator	means a person that owns, controls or operates an embedded generating unit
Environment	means: (a) the physical factors of the surroundings of human beings including the land, waters, atmosphere, climate, sound, odours and tastes; (b) the biological factors of animals and plants; and (c) the social factor of aesthetics
Environmental and Human Health Risk	means: (a) any factor which poses a risk to human health and/or the Environment; and (b) Contamination
ESC	means the Essential Services Commission under the <i>Essential Services Commission Act (Vic)</i> 2001, or any body which assumes its functions
Generator Deed	means the generator deed between the Distributor and the Customer which allows the Customer to export electricity to the Distributor's distribution system, in the form attached as Annexure A (if applicable)
Land	means the land specified in item 2 of Schedule 1
Maximum Capacity	means the import/export levels specified in item 4 of Schedule 1
National Electricity Law	means the National Electricity Law which applies in Victoria as a result of the operation of section 6 of the <i>National Electricity (Victoria) Act (Vic)</i> 2005
National Electricity Market	means the market for wholesale trading in electricity operated by AEMO under the National Electricity Law and the National Electricity Rules
National Electricity Rules	means the rules made under the National Electricity Law
Non-Regulatory Matter	means any dispute or difference other than a Regulatory Matter
Premises	means the premises within the Land upon which the Works will be constructed

Registered Easement	means an easement in favour of the Distributor in the form attached as Annexure A (if any)
Registered Proprietor	means the registered proprietor of the Land and if more than one, includes all registered proprietors of the Land
Regulatory Matter	means any dispute or difference which is to be, or is capable of being, determined in accordance with the National Electricity Rules.
Security Fee	means the security fee specified in item 16 of Schedule 1, or such other security fee acceptable to Distributor, as required to be paid by the Customer in accordance with this Contract
SF Term	means a period of 5 years commencing on the Completion Date
SF Year	means each 12 month period commencing on the Completion Date and each anniversary of the Completion Date
Shortfall	means the amount by which the Anticipated Electricity Consumption in any SF Year exceeds the Actual Electricity Consumption in the same SF Year
Special Conditions	means the Special Conditions (if any) provided in item 14 of Schedule 1
Specification	means the details specified in item 3 of Schedule 1
Start Date	means the date specified in the Construction Program for commencement of the Works
Substation Lease	means a lease or a sub-lease (applicable) in favour of the Distributor in the form attached as Annexure A (if any)
Term	has that meaning given to it in Clause 2
Works	means the works to be completed pursuant to this Contract specified in item 12(a) of Schedule 1 and, if provided, as set out in the Drawing, and any services supplied by the Distributor under this Contract

1.2 Interpretation

(a) General

In this Contract (including the Recitals) unless a contrary intention appears:

- (i) the singular includes the plural and vice versa and reference to a gender includes other genders;
- (ii) a reference to any legislation or statutory instrument includes all regulations and amendments to that legislation or statutory instrument and any legislation passed in substitution for that legislation or statutory instrument or incorporating any of its provisions to the extent that they are incorporated;
- (iii) a reference to a party to this Contract includes its successors and permitted assigns;
- (iv) where a word or phrase is defined, its other grammatical forms of have a corresponding meaning;
- (v) a reference to a clause, schedule or annexure is a reference to a clause of or schedule or annexure to this Contract;
- (vi) a reference to any agreement or document includes that agreement or document as amended or replaced from time to time;
- (vii) the use of the word **includes** or **including** is not to be taken as limiting the meaning of the words preceding it;
- (viii) when a thing is required to be done (other than the payment of money) under this Contract on a day which is not a Business Day, the thing must be done and the money paid on the next Business Day; and
- (ix) no term or provision of this Contract is to be construed against a party on the basis that the Contract or the term in question was put forward or drafted by or on behalf of that party.

(b) Headings

In this Contract headings are used for reference only and do not affect the construction of any provision in this Contract.

(c) Parties Bound

This Contract binds and benefits each party and their respective successors, assigns and legal personal representatives.

If a party consists of more than one person, this Contract binds them jointly and each of them severally.

2. TERM

This Contract will commence on the Commencement Date and will continue until all of the obligations of the Customer and the Distributor under this Contract have been fulfilled or until terminated in accordance with this Contract.

3. CONDITIONS PRECEDENT

Without prejudice to any rights the Distributor has under this Contract, the Distributor will not be required to perform any obligation under this Contract until the following conditions precedent have been satisfied:

- (a) the Customer obtaining and providing to the Distributor the written consent of the Registered Proprietor (or any other person whose consent is required) to enter upon and to perform the Works on the Land and the Premises, or if the Customer is the Registered Proprietor then the Customer providing such consent to the Distributor;
- (b) where a Substation Lease or a Registered Easement is required by the Distributor, the Customer procuring the Registered Proprietor to enter into a legally effective Agreement for Lease, Agreement to Grant an Easement or, if the Customer is the Registered Proprietor then the Customer entering into such agreements;
- (c) Charges have been paid by the Customer on or before the due date on the Distributor's invoice; and
- (d) all Customer Works (which must be completed before the Distributor can commence the Works) have been completed by the Customer to the satisfaction of the Distributor.

4. WORKS

4.1 Nature of Works

(a) Details of:

- (i) the Connection Point is set out in item 12(b) of Schedule 1;
- (ii) the components of the distribution system which are used to provide the connection services, the additional equipment required to be installed on the Premises and allocation of responsibility for the Works is set out in item 12(a) of Schedule 1; and
- (iii) any network extension or augmentation required for the purposes of the connection is set out in item 12(a) of Schedule 1.

- (b) The Distributor will provide information about the connection to the Customer as the Customer may reasonably request from time to time during the term.
- (c) Without limiting any provisions of this Contract, unless otherwise specified, no allowances have been made for:
 - (i) removal of rock and/or Contamination;
 - (ii) vegetation clearance; and
 - (iii) environmental approvals, cultural heritage management approvals, easement negotiations, planning permits and/or third party approvals and/or consents.

4.2 Construction Program

- (a) The Distributor will prepare a Construction Program that includes a Start Date as well as a Completion Date.
- (b) The Distributor will use its reasonable endeavours to construct the Works in accordance with the Construction Program.
- (c) Subject to clause 4.4, the Distributor will use its reasonable endeavours to complete the Works by the Completion Date.
- (d) The Charges and Construction Program have been calculated on the basis that the Distributor will undertake the Works between the hours of 8.00 am and 4.45 pm on Business Days (**business hours**). The Distributor has no obligation to undertake work outside business hours to overcome any delay experienced by the Distributor.

4.3 Design and Construction of Works

- (a) The Distributor will prepare the Construction Design which will be consistent with the Drawing (if provided).
- (b) Once the Construction Design has been completed, the Distributor will construct the Works on the least cost technically acceptable basis and in accordance with this Contract.
- (c) The Distributor may give the Customer a written notice requesting a variation to the Drawing (if provided) (together with adequate particulars of the variation) where:
 - (i) there is a physical condition on the Land or anywhere else where the Works are to be undertaken which differs from the physical

conditions which should reasonably have been anticipated by the Distributor; or

- (ii) land access rights such as a Registered Easement or Substation Lease, is required by the Distributor in respect of land that the Customer does not control, and Customer is unable to procure such land access rights in favour of the Distributor; or
- (iii) any change to any relevant law comes into effect on or after the Commencement Date.
- (d) If, within 10 Business Days (or such longer period agreed between the parties) of the Customer receiving the notice under clause 4.3(c), the Customer does not accept the requested variation to the Drawing, either party may refer the matter for dispute resolution in accordance with clause 14. If the parties are unable to resolve the dispute pursuant to clause 14, either party may give written notice to terminate this Contract immediately. The Distributor will stop carrying out the Works during the 10 Business Days unless the Customer gives the Distributor a written request to continue the Works. The Completion Date will be extended by such period as notified in writing by the Distributor to the Customer, acting reasonably and after taking into consideration the Distributor's operational priorities.
- (e) No comments or review by the Distributor or failure by the Distributor to identify a deficiency in any information or documents submitted by the Customer to the Distributor relieves the Customer of any of its obligations or liabilities under this Contract or will result in the Distributor assuming any responsibility for any of the Customer's obligations under this Contract.

4.4 Variation to Construction Program and/or Charges

- (a) Subject to clause 5.2(b), the Distributor may give the Customer a written notice requesting a variation to the Construction Program and/or the Charges (together with adequate particulars of the variation) if:
 - (i) it becomes apparent upon completion of the Construction Design that the Construction Program and/or Charges needs to be adjusted;
 - (ii) there is a physical condition on the Land or anywhere else where the Works are to be undertaken which differs from the physical

- conditions which should reasonably have been anticipated by the Distributor;
- (iii) the Distributor defers the Works upon written request of the Customer (note that demobilisation and remobilisation costs will be charged at the rates set out in Schedule 1);
 - (iv) the Distributor forms a reasonable opinion that the Customer is unlikely to require connection of supply of electricity at the Land at the Completion Date (having consulted with the Customer and taken into account the discussions with, and any other information provided by, the Customer);
 - (v) the Distributor forms a reasonable opinion that an event beyond the control of the Distributor has interfered with construction of the Works;
 - (vi) the Distributor forms a reasonable opinion that the Customer's instructions, or part thereof, on which the Works were based have altered;
 - (vii) the Distributor forms a reasonable opinion that the Customer has not disclosed all necessary information to the Distributor for the proper design or construction of the Works;
 - (viii) the obligations contained in clause 4.5 (Customer's Obligations) or clause 5.2 (Payment Obligations) have not been satisfied;
 - (ix) necessary to comply with a plan of subdivision, the *Road Management Act (Vic)* 2004 or any requirement of a local Council or authority, including any requirement to carry out Works outside of business hours;
 - (x) the Customer has accepted a variation to the Drawing pursuant to clause 4.3(c);
 - (xi) the Customer causes any delay to the Works or has requested that Works be carried out in a way that does not meet the least cost technically acceptable basis of carrying out the Works;
 - (xii) if any change to any relevant law, standards or other requirement comes into effect on or after the Commencement Date which causes the Distributor to incur more cost than otherwise would have been incurred in performing the Works;
- (xiii) no allowance or an insufficient allowance was made for the removal of rock and/or Contamination;
 - (xiv) no allowance or an insufficient allowance was made for appropriate management of an Environmental and Human Health Risk;
 - (xv) no allowance or an insufficient allowance was made for activities associated with vegetation clearance, environmental approvals, cultural heritage management approvals, easement negotiations, planning permits and/or third party approvals and/or consents;
 - (xvi) there is a delay in the granting of approvals, consents or permits from a third party;
 - (xvii) where the circumstances in which the Works are required to be undertaken (including the requirements of applicable laws and/or third party requirements) have the consequence that the Distributor must undertake the Works outside of business hours; or
 - (xviii) it becomes apparent after an initial earthing assessment that a detailed earthing assessment and/or full earthing study will be required;
 - (xix) any condition precedent specified in clause 3 has not been satisfied by the Customer on or before the Start Date.
- (b) The Distributor is not required to commence or continue with the Works if the Customer fails to comply with any of its obligations under this Contract, including payment of the Charges.
 - (c) If, within 10 Business Days (or such longer period agreed between the parties) of the Customer receiving the notice under clause 4.4(a), the parties are not able to agree to the variation to the Construction Program and/or the Charges, either party refer the matter for dispute resolution in accordance with clause 14. If the parties are unable to resolve the dispute pursuant to clause 14, either party may give written notice to terminate this Contract immediately. Unless the Customer requests otherwise, the Distributor will stop carrying out the Works during the 10 Business Days period. The Completion Date will be extended by such period as notified in writing by the Distributor to the Customer, acting

reasonably and after taking into consideration the Distributor's operational priorities.

- (d) Where the Distributor requests a variation to the Construction Program pursuant to clause 4.4, the Distributor will use its reasonable endeavours to ensure the adjusted Construction Program allows the Works to be performed as soon as is reasonably possible by the Distributor after taking into consideration the Distributor's operational priorities and the date that the Customer requires connection of supply of electricity at the Connection Point.

4.5 Customer's Obligations

- (a) The Customer must at its cost:

- (i) complete all Customer Works to the reasonable satisfaction of the Distributor;
- (ii) obtain all necessary permits, consents and/or approvals to enable the construction of the Works from the relevant responsible authorities unless otherwise specified to the contrary in item 6 of Schedule 1;
- (iii) be responsible for reinstatement as required by any responsible authority unless otherwise specified in item 7 of Schedule 1;
- (iv) at the time it applies for a connection service, have appropriate metering installed;
- (v) undertake all vegetation clearing to the reasonable satisfaction of the Distributor (including obtaining any permit or statutory approval necessary to clear any vegetation); and
- (vi) arrange for the Customer Works to be audited where the Distributor notifies the Customer in writing that the Customer Works must be audited in accordance with the Distributor's requirements as notified to the Customer. The Customer must provide all such assistance and cooperation required by the Distributor to facilitate such audits. Where an audit identifies a deficiency in the Customer Works, the Customer must remedy that deficiency and reimburse the Distributor for the cost of further audits, inspection and testing to verify that the deficiency has been addressed.

- (b) The Customer must ensure that the Land for the Works and the means of access to and egress from the Land for the Works are safe and without risk to health as required by the *Occupational Health and Safety Act (Vic)* 2004.

- (c) The Customer must take all reasonably practicable steps to identify Environmental and Human Health Risks that may exist in respect of the Land and which may impact on, or relate to, the Works or the health and safety of those undertaking the Works. Where the Customer knows or suspects that such an Environmental and Human Health Risk exists, the Customer must at its cost:

- (i) strictly comply with all duties and obligations imposed on it by the *Environment Protection Act 2017 (Vic)*; and

- (ii) without limiting clause 4.5(c)(i), provide the Distributor and the Distributor's contractors with the following information in respect of the Environmental and Human Health Risk (whether actual or suspected) as soon as practicable and in any event prior to the Works commencing:

- (A) sufficient information to identify and understand the Environmental and Human Health Risk, including its nature and location;

- (B) the results and reports of any investigation and assessment undertaken in respect of the Environmental and Human Health Risk; and

- (C) information about the potential risks of harm to human health and the Environment relating to the Environmental and Human Health Risk.

- (d) The Customer must provide enclosures to accommodate and secure the Distributor's and the Distributor's contractor's equipment on the Land and/or the Premises of a standard approved by the Distributor's Responsible Officer.

- (e) The Customer must provide to the Distributor, its employees, agents and contractors, safe and unhindered access to the Land, including full vehicular access for construction vehicles and plant to the Land of a standard approved by the Distributor's Responsible Officer.

- (f) Where the Customer is responsible for obtaining a permit or statutory approval, the Customer must promptly provide satisfactory evidence of the permit or statutory approval to the Distributor. The Customer must complete to a standard required by the Distributor's Responsible Officer any Customer Works, vegetation or other clearing necessary for the Works to proceed.

5. PAYMENT

5.1 Customer to Pay for Works

- (a) In consideration of the Distributor constructing the Works, the Customer agrees to pay the Charges.
- (b) The Customer hereby indemnifies and agrees to keep the Distributor indemnified against all losses arising, paid, suffered or incurred by the Distributor as a result of or in connection with the Customer's failure to pay the Charges.

5.2 Payment obligations

- (a) The Customer must pay the Charges as a lump sum payment on or before the due date(s) specified in invoice(s) issued by the Distributor.
- (b) If, in the Distributor's reasonable opinion, there is reason for varying the Charges pursuant to clause 4.4 but it is not reasonable to stop construction of the Works (for example for safety reasons, to comply with the law or where stopping would increase costs) and seek the Customer's prior written consent, the Distributor may give the Customer a written notice of variation of the Charges together with adequate particulars of such variation including the amount of the additional charges.
- (c) Where the Distributor gives a notice under clause 5.2(b), the additional charges will be a debt due and payable to the Distributor. The Customer must pay the Distributor the additional charges as a lump sum on or before the due date specified in the Distributor's invoice.

5.3 Security Fee

- (a) This clause only applies if item 16 of Schedule 1 indicates it applies. The Customer agrees to pay Distributor the Security Fee specified in item 16 of Schedule 1 within 30 days of the Commencement Date.
- (b) Subject to clause 5.3(d), the Distributor will hold the Security Fee for the SF Term.

- (c) If the Customer ceases to operate, the Distributor may in its absolute discretion retain the balance of any Security Fee held by Distributor.
- (d) Subject to clause 5.3(e) during the SF Term, if the Actual Electricity Consumption is equal to, or exceeds the Anticipated Electricity Consumption in a SF Year, the Distributor will within 30 Business Days of the expiry of the relevant SF Year, rebate to the Customer 20% of the Security Fee with interest. Interest is payable annually on the rebate amount plus any balance of the Security Fee held by the Distributor.
- (e) During the SF Term, if there is a Shortfall in a SF Year, the Distributor will reduce the rebate payable for the relevant SF Year by the Shortfall expressed as a percentage of the Anticipated Electricity Consumption. Interest is not payable on the amount of the reduction of any rebate.
- (f) The interest rate is based on the average monthly 90 day Bank Accepted Bill rate published by the Reserve Bank of Australia, less 0.25%, from the date Distributor receives the Security Fee.

5.4 Pricing Volatility

- (a) This clause only applies if item 5 of Schedule 1 indicates it applies. The Customer acknowledges the Charges are based on supplier pricing of equipment and supplier contracted services at the time of this Contract. The Customer acknowledges and accepts that in respect of the items of equipment (**Nominated Equipment**) and/or contracted services identified in item 5 (**Nominated Contracted Services**), there is pricing volatility outside of the Distributor's reasonable control.
- (b) If at any time the supplier pricing for any of the Nominated Equipment or Nominated Contracted Services change at the time of ordering by the Distributor, the Distributor will notify the Customer in writing together with adequate particulars of such pricing change, which notice will be taken to be a variation to the Charges.

6. GST PAYABLE

- (a) All fees, charges and other amounts referred to in this Contract are exclusive of GST except where express provision is made to the contrary.
- (b) Subject to the Distributor providing the Customer with a tax invoice, the Customer must pay the fees, charges and other amounts including any GST payable.

- (c) A word or expression used in this clause which is defined in *A New Tax System (Goods and Services Tax) Act (Commonwealth)* 1999 has the same meaning in this clause.
- (d) If, after the Commencement Date, the GST rate changes (including to an effective rate of zero for any particular Supply) (the "New GST Rate"), the parties agree that Supplier may vary the GST inclusive price for any Supply made under this Contract that is attributable to a tax period on or after the commencement of the New GST Rate, to reflect the new amount of GST payable (if any).

7. LIABILITY OF CUSTOMER

- (a) Subject to clause 7(b) and the Customer's obligation to pay the Charges, notwithstanding any other provision of this Contract and except to the extent that liability cannot legally be limited or excluded:
 - (i) the Customer's total liability for all events giving rise to liability on its part arising out of or in connection with this Contract will be limited to the lesser of the Charges or \$1,000,000 (one million dollars) in total aggregate;
 - (ii) the limitation and exclusion of liability contained in this clause 7(a) will apply whether the liability claim is based on breach of contract, breach of warranty, breach of statute or regulation, tort, negligence, under an indemnity, strict liability, in equity or other legal theory.
- (b) The Customer's liability for:
 - (i) personal injury or death;
 - (ii) fraud;
 - (iii) wilful misconduct;
 - (iv) property damage to the extent caused or contributed to by any negligent act or omission of the Customer;
 - (v) third party claims against the Distributor to the extent caused or contributed to by any negligent act or omission of the Customer; or
 - (vi) any loss suffered by the Distributor under the Australian Energy Regulator's Service Target Performance Incentive Scheme to the extent caused or contributed to by any negligent act or omission of the Customer,

will be unlimited.

- (c) The Customer's liability under this Contract is reduced proportionately to the extent that the Distributor's negligent acts or omissions have caused or contributed to such loss, damage, expense or injury.

8. LIABILITY OF THE DISTRIBUTOR

- (a) Subject to clause 8(b), but notwithstanding any other provision of this Contract and except to the extent that liability cannot legally be limited or excluded:
 - (i) the Distributor's total liability for all events giving rise to liability on its part arising out of or in connection with this Contract will be limited to the lesser of the Charges or \$1,000,000 (one million dollars) in total aggregate;
 - (ii) in no event will the Distributor be liable for any fines, penalties, liquidated sums that the Customer may be liable for under third party contracts, loss of use, contract, profit or revenue, production stoppage or replacement services, or for any indirect or consequential loss or damage;
 - (iii) the limitation and exclusion of liability contained in this clause 8(a) will apply whether the liability claim is based on breach of contract, breach of warranty, breach of statute or regulation, tort, negligence, under an indemnity, strict liability, in equity or other legal theory.

- (b) The Distributor's liability for:

- (i) personal injury or death;
- (ii) fraud; or
- (iii) wilful misconduct,

will be unlimited.

- (c) The Distributor's liability under this Contract is reduced proportionately to the extent that the Customer's negligent acts or omissions have caused or contributed to such loss, damage, expense or injury.

9. NOT A RETAIL OFFER OR DEEMED DISTRIBUTION CONTRACT

- (a) This Contract does not in any way constitute an offer to the Customer to sell electricity to the Customer.

- (b) This Contract does not apply to the supply of electricity to the Premises. Those are matters that are dealt with in a separate contract which is the Deemed Distribution Contract.

or if connected, the Customer's maximum demand of electricity taken at the Premises is less than the Customer's Maximum Capacity (Import) (as set out in item 4 of Schedule 1),

10. CUSTOMER'S ONGOING OBLIGATIONS

10.1 Customer Compliance

- (a) The Customer must ensure that all electrical work in relation to the Customer's electrical installation is carried out by an appropriately licensed electrical contractor.
- (b) The Customer must comply with all its obligations under the Electricity Law, including the Electricity Distribution Code of Practice.
- (c) The Customer must comply with the Victorian Electricity Distributors Service & Installation Rules as amended from time to time.

10.2 Ongoing Protection of Works

The Customer must not interfere and must use its best endeavours not to allow interference with the Works on the Premises and must provide and maintain appropriate access to, accommodation and/or fencing for the Works and must maintain appropriate clearances from the Works.

10.3 Maximum Capacity

- (a) Details of:
- (i) the Maximum Capacity at the Connection Point is set out in item 4 of Schedule 1; and
 - (ii) the connection assets required at the Connection Point is set out in item 12(b) of Schedule 1.
- (b) The Customer must not take electricity, and, where the Customer is an Embedded Generator, must not export electricity, at a rate exceeding the Maximum Capacity at the Connection Point, unless the Distributor's prior written approval is obtained.
- (c) If after the Works are completed:
- (i) the Customer's maximum demand of electricity taken at the Premises over any 3 year period is less than 75% of the Customer's Maximum Capacity (Import) (as set out in item 4 of Schedule 1); or
 - (ii) on or before the date that is 12 months from the Completion Date, the Customer has failed to connect an electricity supply

the Distributor may give the Customer a written notice of a lower Maximum Capacity that better reflects the Customer's actual electricity usage and demand (which may be zero).

10.4 Connection Point

The Customer must ensure that they take supply from the Connection Point at all times in accordance with the Specification. Where the Customer is an Embedded Generator, the Customer must not export electricity in excess of the export capacity in the Specification.

10.5 Sale of Land

If the Customer transfers its interest in, or sells the whole or part of the Land to any person, the Customer must advise that person that:

- (a) they must not take electricity in excess of the Maximum Capacity and where the Customer is an Embedded Generator, the Customer must not export electricity in excess of the export capacity in the Specification;
- (b) they must ensure that the Connection Point is at all times in accordance with the Specification; and
- (c) a supply of electricity may not be available if they take electricity, or where the Customer is an Embedded Generator, if they export electricity, in excess of the Maximum Capacity or if they do not ensure that the Connection Point is at all times in accordance with the Specification.

11. WORKS ARE PROPERTY OF THE DISTRIBUTOR

Unless otherwise provided in this Contract, the Works will be, and will remain, the property of the Distributor. The Distributor may provide electricity supply to any person from the Works upon such terms and conditions as it thinks fit and may at any time after the termination of a connection to supply electricity remove the Works, or any part of the Works. The Distributor may alter, replace or otherwise deal with the Works at any time and in its absolute discretion.

12. TERMINATION

- (a) Either party may give written notice to terminate this Contract immediately:

- (i) in accordance with clause 4.3(c) (variation to Drawing);
 - (ii) in accordance with clause 4.4(c) (variation to Construction Program and/or Charges);
 - (iii) if the defaulting party fails to remedy a material breach within 10 Business Days of receiving written notice of the breach from the non-defaulting party; or
 - (iv) if the other party:
 - (A) commits an act of bankruptcy;
 - (B) is the subject of an application for winding up;
 - (C) calls a meeting of its creditors;
 - (D) has a receiver appointed over all or substantial part of its assets;
 - (E) passes a resolution for its winding up;
 - (F) compounds with its creditors; or
 - (G) evinces an intention to no longer perform its obligations under this Contract.
 - (v) where for reasons other than the Distributor's default, the Distributor has not been able to commence the Works within 6 months of the Commencement Date.
- (b) Either party may terminate this Contract by 10 Business Days written notice to the other party where:
- (i) in the case of the Distributor, the Distributor forms a reasonable opinion that:
 - (A) the Customer is unlikely to require connection of supply of electricity at the Land at the Completion Date (having consulted with the Customer and taken into account the discussions with, and any other information provided by, the Customer); or
 - (B) having regard to a variation proposed by the Customer and any previously agreed variations, the original scope of Works has changed such that a new project should be initiated,
 - (ii) in the case of the Customer, the Customer no longer requires the connection of supply of electricity.
- (c) Clauses 5, 6, 7, 8, 10 and 13 will survive the termination of this Contract.
- (d) Where this Contract is terminated before the Distributor has completed the Works, the Distributor will calculate the charges for Works already carried out by the Distributor under this Contract up to the date of termination or is reasonably required to be carried out as a result of termination of the Contract (**incurred charges**) and:
- (i) where the Charges paid by the Customer exceed the incurred charges, the Distributor will refund to the Customer the difference;
 - (ii) where the Charges paid by the Customer (including where the Customer was not required to pay any Charges) are less than the incurred charges, the Distributor may invoice the Customer for any shortfall, which shortfall will be a debt due and payable to the Distributor.
- (e) Where the Customer has also executed a Generator Deed, termination of this Contract will be deemed to automatically terminate the Generator Deed and any other related contracts set out in the Schedule.

13. GENERAL

13.1 Special Conditions

Any Special Conditions set out in item 14 of Schedule 1 form part of this Contract. To the extent of any inconsistency between any of the Special Conditions and the rest of this Contract, the relevant Special Condition will prevail.

13.2 Assignment

- (a) The Customer may assign its rights or transfer its obligations under this Contract with the prior written consent of the Distributor which will not be unreasonably withheld or delayed.
- (b) The Customer's request for the Distributor's consent to the proposed assignment or transfer must be in writing and provide details of the name and postal address of the proposed assignee or transferee (as the case requires), the premises of the proposed assignee or transferee (as the case requires) and any other details required by the Distributor.

- (c) The Distributor may assign its rights or transfer its obligations under this Contract in its absolute discretion to another licensed electricity distributor. The Customer agrees to execute any reasonable document the Distributor may prepare to effect such assignment or transfer.

13.3 Governing Law and Jurisdiction

The law of this Contract is the law of Victoria. The parties irrevocably and unconditionally submit themselves to the exclusive jurisdiction of the courts of Victoria or courts having jurisdiction in Victoria and of all courts competent to hear appeals from those courts. The parties waive any right to object to any proceedings being brought in those courts.

13.4 Waiver

A party's failure or delay to exercise a power, right, authority, discretion or remedy does not operate as a waiver of that power, right, authority, discretion or remedy. The waiver of a breach of any of the provisions of this Contract or a power, right, authority, discretion or remedy under this Contract must be in writing and executed by the waiving party.

13.5 Notices

- (a) A consent, approval or other communication (each a Notice) under this Contract by one party to the other party must be:
- (i) in writing;
 - (ii) signed by or on behalf of the Responsible Officer of the party giving the Notice;
 - (iii) addressed to the Responsible Officer of the other party; and
 - (iv) provided in the following ways:
 - (A) delivered or posted to that party at the address for Notices specified in item 9 of Schedule 1; or
 - (B) emailed to that party at the email address as specified in item 9 of Schedule 1;
 - (C) and in each case, any other address notified by one party to the other party.
- (b) A Notice given to a party in accordance with clause 13.5 is treated as having been received:
- (i) if delivered to that party's address before 5.00 pm on a Business Day, on the day of

delivery, otherwise on the next Business Day;

- (ii) if sent by mail, on the second Business Day after posting;
- (iii) if transmitted by email to a party where a transmission report is received by the sending party, at the time of that transmission but otherwise on the next Business Day.

13.6 Responsible Officer

- (a) The Distributor's Responsible Officer, or a substitute nominated in writing by the Distributor, is authorised by the Distributor to undertake any action and bind the Distributor pursuant to, and for the purposes of this Contract.
- (b) The Customer's Responsible Officer, or a substitute nominated in writing by the Customer, is authorised by the Customer to undertake any action and bind the Customer pursuant to, and for the purposes of this Contract.

13.7 Exclusion of Warranties

To the fullest extent permitted by law, all statutory and implied warranties and terms are excluded in respect of the Works by the Distributor.

13.8 Variation

The Parties may only vary this Contract by agreement in writing.

13.9 Entire Contract

This Contract sets out all the terms agreed by the Parties and the Customer acknowledges that it has not relied on any representation, inducement, warranty or promise which is not contained in it.

13.10 Costs

Each party must pay its own costs in relation to preparing, negotiating and executing this Contract and any document related to this Contract.

13.11 No Agency or Partnership

No party is an agent, representative, partner or fiduciary of any other party by virtue of this Contract.

14. Dispute Resolution

14.1 Disputes

Any dispute or difference arising between the parties out of or in connection with this Contract must be resolved in accordance with this clause.

14.2 Notice of Dispute

Should any dispute or differences arise between the parties out of or in connection with this Contract, either party may give written notice of the dispute or difference to the other party. The notice shall state that it is a notice under this clause and shall identify the dispute concerned and the clauses of this Contract relevant to the dispute.

14.3 Referral to senior representative

If the parties fail to resolve a dispute or difference within 10 Business Days of a notice of dispute being given under this clause, the dispute or difference must be referred for resolution to each party's authorised senior representative whose decision shall be binding.

If the matter is not resolved within 5 Business Days of such referral either party may then take further action in accordance with clause 14.4 or 14.5.

14.4 Expert Determination

- (a) The parties must comply with clauses 14.2 and 14.3 as a pre- condition to submitting a Non-Regulatory Matter for dispute resolution in accordance with this clause.
- (b) If a Non-Regulatory Matter is not resolved by the senior representatives of the parties as contemplated in clause 14.3, either party may submit the Non-Regulatory Matter to expert determination by giving notice in writing to the other party. The provisions of the of the Expert Determination Rules 2001 as published by The Institute of Arbitrators and Mediators Australia (to be found on its website www.iama.org.au) shall apply, except to the extent that they are inconsistent with provisions in this Contract.

EXECUTED by the parties as a Contract

For the **Customer** by:

..... Signature	 Witness Signature
..... Print Name	 Print Name
..... Position	
Date:	

For the **Distributor** by:

..... Signature	 Witness Signature
..... Print Name	 Print Name
..... Position	
Date:	

Our Ref:
Address:

Schedule 1 of Negotiated Connection Contract

1.	Parties To This Contract The Distributor Name & ABN of the Distributor: Registered office address: Postal address of the Distributor: The Customer ABN: Registered office address: Postal address of the Customer: The Customer Address: Postal address of the Customer:
2.	Land (clause 1.1): Subdivision Name / Plan:..... Lot Nos: New Land Use: Number of Lots: Municipality:
3.	Specification (clause 1.1): Incremental capacity Wire configuration: Nominal supply voltage: (a) Import of electricity (b) Export of electricity (a) Import of electricity: Consisting of: (b) Export of electricity:
5.	Pricing Volatility (clause 5.4): Does clause 5.4 apply: ☐ Yes ☐ No
6.	Permits to be obtained by the Distributor (if applicable) (clause 4.5(a)(ii)):
7.	Reinstatement by the Distributor (if applicable) (clause 4.5(a)(iii)):
8.	Charges (clause 5): GST exclusive Charges payable:
9.	Notices (clause 13.5): Addresses for Notices to be given The Distributor under this Contract will, until the

addressee notifies the other party in writing otherwise, be as follows:		The Customer Contractual notices and written requests: Address for Invoices (if different from above):																
10.	The Distributor's Responsible Officer (clause 13.6(a)):																	
11.	Customer's Responsible Officer (clause 13.6(b)):																	
12.(a)	Description of Works (clause 1.1): Upon Execution of this Contract the Distributor will:																	
13.	Construction Program (clause 4.2(a)): <table border="0"> <thead> <tr> <th>Project Milestones</th> <th>Initiated By/Estimated Duration</th> </tr> </thead> <tbody> <tr> <td>Start</td> <td>Date</td> </tr> <tr> <td>Project</td> <td>Planning</td> </tr> <tr> <td>Construction</td> <td>Design completion</td> </tr> <tr> <td>Roads management</td> <td>consent receipt</td> </tr> <tr> <td>Soil testing</td> <td>completion</td> </tr> <tr> <td>Upstream upgrade works /</td> <td>Completion</td> </tr> <tr> <td>Date</td> <td></td> </tr> </tbody> </table>		Project Milestones	Initiated By/Estimated Duration	Start	Date	Project	Planning	Construction	Design completion	Roads management	consent receipt	Soil testing	completion	Upstream upgrade works /	Completion	Date	
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14.	Special Conditions (clause 13.1): The Customer shall be responsible for:																	
15.	Customer Works (clause 4.5(a)):																	
16.	Security Fee (clause 5.3):																	

Schedule 2

Drawing of the Works (Optional) – clause 1.1

Annexure A

Memorandum of Agreement

Agreement for Lease

Lease Substation

Variation to Lease Substation

Agreement to Grant an Easement

Registered Easement