

sumo

**Market
Retail
Contract**

Terms and Conditions ●.....

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1. Background

- 1.1 These terms and conditions (**Terms and Conditions**) form part of the energy retail agreement (**Agreement**) between you and us for the sale of energy to you at the Premises.
- 1.2 The other parts of the Agreement are the Important Details and your Energy Plan.
- 1.3 If you have agreed to purchase both electricity and gas from us, then we actually have two separate Agreements, one for electricity and the other for gas. Any of these Terms and Conditions relating just to electricity or just to gas does not apply to the Agreement for the other form of energy.

2. Sale and purchase of energy

We agree to sell and you agree to purchase energy on the terms of the Agreement.

3. When this Agreement starts

- 3.1 This Agreement starts on the Acceptance Date and continues until you or we end it.
- 3.2 If you accept this Agreement over the phone, we will provide you with an Agreement Document within 5 Business Days after the Acceptance Date, either:
 - 3.2.1 in person;
 - 3.2.2 by post; or
 - 3.2.3 by email, if you have agreed to the use of electronic communications in the Important Details or in your Energy Plan.

4. When we start selling energy

We will not start selling you energy at the Premises unless and until:

- 4.1 if requested, you have given us:
 - 4.1.1 acceptable identification;
 - 4.1.2 your contact details for billing purposes and, if you rent the Premises, contact details for your landlord or the landlord's agent; and
 - 4.1.3 credit history information;
- 4.2 your cooling-off period under clause 5 has expired;

- 4.3 you have paid any applicable connection fee or other charge associated with connecting the Premises to the distribution system, and the Premises are connected; and
- 4.4 if we are not already the retailer Responsible for the Premises, a transfer of Responsibility to us from the Responsible retailer is completed in accordance with clause 7.

5. Cooling off

- 5.1 You can cancel this Agreement during the 10 Business Day cooling off period (even though you agreed to or accepted it).
- 5.2 The cooling off period starts on the later of:
 - 5.2.1 the first Business Day after the Acceptance Date;
 - 5.2.2 if you accept this Agreement over the phone, the first Business Day after the day on which we give you an Agreement Document; and
 - 5.2.3 the day on which you receive our Disclosure Statement.
- 5.3 To cancel, you must notify us of your intention to cancel by telephone or in writing. Our contact information is set out in the Important Details, and in our bills.

6. Creditworthiness

- 6.1 We may determine your creditworthiness by doing a credit assessment of you, using any information we are permitted by law to use to do so.
- 6.2 We may disclose your relevant Personal Information, Sensitive Information or other information to a credit reporting body before, during or after we sell energy to you:
 - 6.2.1 to obtain a credit report about you; and
 - 6.2.2 to allow the credit reporting body to create or maintain a credit information file about you – in this case the information we may disclose includes information relating to any default by you in making payments required by this Agreement.
- 6.3 We will comply with all applicable privacy laws in determining your creditworthiness.
- 6.4 You agree that, for the purpose of assessing your

creditworthiness, we may obtain a consumer credit report from a credit reporting agency containing information about you and information about you from a business which provides information about the commercial creditworthiness of persons.

7. Transferring Responsibility for the Premises

If we are not currently the retailer Responsible for the Premises, we will arrange for Responsibility for the Premises to transfer to us.

8. Cancellation of the Agreement by us

- 8.1 We may stop the transfer under clause 7 and cancel this Agreement for any reason before the transfer is completed, including where:
 - 8.1.1 we are not satisfied you are a Small Customer;
 - 8.1.2 the transfer does not occur within 3 months of the Acceptance Date;
 - 8.1.3 you do not meet our credit requirements;
 - 8.1.4 you do not meet any eligibility criteria described in the Important Details or in your Energy Plan;
 - 8.1.5 we are not satisfied with the type of meter you have or your Distributor's network tariff; or
 - 8.1.6 any information concerning you or the Premises included in the Important Details is incorrect.
- 8.2 We will notify you if we cancel the Agreement under clause 8.1 and may offer you an alternative agreement.

9. Important Details

- 9.1 Without limiting what may be specified in the Important Details, the Important Details:
 - 9.1.1 set out details about you and the Premises; and
 - 9.1.2 set out your initial energy prices and other fees and charges you must pay under this Agreement.

10. Energy Plan

- 10.1 Your Energy Plan includes specific benefits for you under the Agreement including, where relevant, the fixed period over which those benefits apply.
- 10.2 We will notify you no earlier than 40 Business Days and no later than 20 Business Days before any benefits under your Energy Plan end, and may advise you of any

alternative benefits which are available and for which you are eligible (**Alternative Benefits**). You may then:

10.2.1 if we notify you of multiple Alternative Benefits, notify us of which Alternative Benefit, if any, you wish to apply under your Energy Plan when your current benefits end; or

10.2.2 do nothing, in which case the benefits under your Energy Plan will end and, at our discretion, we may transition you to an Alternative Benefit.

10.3 We may end any benefits under your Energy Plan by giving you at least 20 Business Days' notice, provided:

10.3.1 we offer you a similar Alternative Benefit; and

10.3.2 transitioning you to the Alternative Benefit would not be detrimental to you.

11. Multiple Premises

If more than one Premises is specified in the Important Details, then:

11.1 the Agreement is for the sale of energy to you at each of those Premises;

11.2 the Agreement starts at the same time under clause 3 for all of those Premises and may be cancelled under clause 5.1 only in respect of all of those Premises;

11.3 the date at which we start selling you energy at each Premises under clause 4 may differ (for example, because the transfers contemplated by clause 7 may be completed at different times);

11.4 the Agreement may end in respect of one or more but not all of the Premises if the relevant circumstances do not relate to all of the Premises, including where you vacate particular Premises;

11.5 we may prepare consolidated bills for all or some of the Premises, including where a bill for one or more of those Premises is required to be a final bill and for others it is not; and

11.6 except as otherwise provided in this clause 11, each reference in these Terms and Conditions to the Premises is to each of the Premises specified in the Important Details separately, or to all of them collectively, as the context may require.

12. New or additional premises

12.1 You may ask us to sell energy to you at additional

premises on the terms of this Agreement, or to transfer the Agreement to new premises because you are moving.

12.2 We may offer to incorporate the premises into the Agreement on terms detailed in the offer.

13. Vacating the Premises

13.1 If you vacate the Premises, this Agreement will end from the date you do so. If you are vacating the Premises, you must notify us at least 4 Business Days beforehand and must provide your forwarding address to us for your final bill for the Premises. We will arrange for your meter to be read at the time agreed with you or as soon as possible after if your meter cannot be accessed then.

13.2 If you fail to tell us that you are moving or you fail to provide access to your meter, then, despite this Agreement having ended, we will continue to bill you for energy consumed at the Premises and other amounts payable as if this Agreement hadn't ended, until:

13.2.1 if you subsequently do tell us, or provide access to your meter, your meter has been read;

13.2.2 the energy supply to the Premises is disconnected, or Responsibility for the Premises is transferred to another retailer; or

13.2.3 we enter into a new agreement in relation to the Premises, whether with you or someone else,

and you must pay those bills.

14. Billing

14.1 We will send you your bill for each Billing Period as specified in the Important Details, to:

14.1.1 your nominated email address for bills, if you have agreed to the use of electronic communications in the Important Details or in your Energy Plan;

14.1.2 your nominated postal address for bills; or

14.1.3 the supply address for the Premises.

14.2 Bills we send to you will be calculated by applying the energy prices set out in the Important Details (as varied under clause 21), which cover the cost of your energy and other regular recurrent charges in relation to the supply and sale of energy to you at the Premises, including charges based on the network tariff payable for the supply of energy to the Premises by your

Distributor, to:

14.2.1 the amount of energy consumed at the Premises during the Billing Period, using information obtained from reading your meter; or

14.2.2 an estimation of that consumption in accordance with the Energy Laws.

14.3 Bills will also include:

14.3.1 any other fees and charges provided for under the Agreement (as set out in the Important Details or in your Energy Plan and as varied under clause 21) with respect to the Billing Period;

14.3.2 any other fees or charges we incur in relation to the supply and sale of energy to you at the Premises, such as special meter read fees, costs incurred in connection with any new metering required because a solar PV system has been installed at the Premises and the applicable connection charges if you have asked for a new connection or connection alteration and have not made alternative arrangements with your Distributor;

14.3.3 any additional charges under clause 21; and

14.3.4 any other amounts you owe us under the Agreement, including (without limitation) any undercharged amount.

14.4 If your bill is based on an estimate of your usage and we later have a measurement of your actual usage, we will adjust a subsequent bill for the difference between the estimate and your actual usage.

15. Payment

15.1 You must pay each bill in full by the Due Date, which will be no earlier than 7 Business Days from the date we issue the bill. You can pay your bill by any of the options listed on your bill.

15.2 If you cannot pay by the Due Date or are experiencing financial hardship, you must notify us of this as soon as possible. We will provide you with information about payment options.

15.3 If you do not pay by the Due Date, unless you have requested a review of the bill we may do one or more of the following:

15.3.1 apply any Security Deposit we are holding;

15.3.2 place you on a shortened collection cycle, where the Energy Laws allow us to do this. We will give you a notice within 10 Business Days of doing so, detailing what you will need to do in order to be removed from the shortened collection cycle;

15.3.3 disconnect your energy supply in accordance with clause 25;

15.3.4 ask a debt collection agency to obtain the payment from you; and

15.3.5 sell the rights to the unpaid amount to a third party who may seek to collect it from you.

15.4 If we sell you electricity and gas we will apply payments as you direct or, if you do not give us a direction, to the oldest debt you owe us.

15.5 If you have more than one Agreement with us, we may deduct from and set-off against amounts paid or payable under one Agreement (including after that Agreement has ended), any amounts paid or payable under another Agreement.

16. Security Deposits

16.1 Depending on your creditworthiness, we may ask you to pay us a Security Deposit. You would have to pay the Security Deposit within 10 Business Days of our request. We would pay you interest on the Security Deposit as required by the Energy Laws. We could apply the Security Deposit and accrued interest against amounts you owed us under this Agreement. We would let you know when we did this. If we no longer needed the Security Deposit, or if we no longer sold energy to you, we would return the Security Deposit and accrued interest to you in accordance with your reasonable instructions.

17. Reviewing bills

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

17.2 If your bill is reviewed, you are still required to pay:

17.2.1 the lesser of:

- (a) the portion of the bill that you do not dispute; and
- (b) an amount equal to the average of your bills in the last 12 months (excluding the bill in dispute); and

17.2.2 any other bills from us that are due for payment.

- 17.3 If you ask us to, we will arrange for a check of the meter reading or metering data or for a test of the meter. You will be liable for the cost of the check or test unless the meter or metering data proves to be faulty or incorrect and, if permitted by the Energy Laws, we may request payment in advance. However, if the meter or metering data proves to be faulty or incorrect, we will reimburse you for any amount paid in advance.
- 17.4 If the review finds the bill is correct, you must pay the unpaid amount. If the review finds the bill is incorrect, we will make the necessary adjustments to the bill.
- 17.5 If, after completion of our review of a bill, you are not satisfied with our decision, you may lodge a dispute with the Energy Ombudsman.

18. Meters

- 18.1 You must allow safe and unhindered access to the Premises for the purposes of reading and maintaining the meter at the Premises.
- 18.2 If you fail to allow meter access and we bill you based on an estimate of your energy consumption, we may charge you an additional fee if you ask us to bill you based on your actual consumption.
- 18.3 We will use our best endeavours to ensure that meter readings are carried out as frequently as is needed to prepare your bills, consistently with the Energy Laws and in any event at least once every 12 months.

19. Undercharging

- 19.1 If we have undercharged you, we may recover the undercharged amount from you.
- 19.2 If we recover an undercharged amount from you:
- 19.2.1 we will not charge interest on the undercharged amount; and
- 19.2.2 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.
- 19.3 The maximum amount we can recover from you is limited to the amount that has been undercharged in the 9 months immediately before we notify you, unless the undercharge is your fault, or results from your unlawful act or omission.

20. Overcharging

- 20.1 Where you have been overcharged by an amount less than the overcharge threshold under the Energy Laws, as applicable from time to time, we must credit that amount to your next bill after we become aware of the overcharging.
- 20.2 Where you have been overcharged by an amount equal to or more than the overcharge threshold under the Energy Laws, we must:
- 20.2.1 inform you within 10 Business Days of our becoming aware of the overcharge; and
- 20.2.2 repay the overcharge by crediting the relevant amount to your next bill, or otherwise as you reasonably request.
- 20.3 If you have stopped buying energy from us, we will use our best endeavours to pay the overcharged amount to you within 10 Business Days.
- 20.4 No interest is payable on an amount overcharged.

21. Varying prices and charges

- 21.1 The Important Details state the initial energy prices we use to determine our charges.
- 21.2 If the energy prices stated in the Important Details are not the prices we generally apply to customers of your type, in your distribution area, with your meter type and any other characteristic referred to in the Important Details, we will notify you of this as soon as practicable and, if we have billed you based on the stated energy prices, we will adjust the bill.
- 21.3 If after the Agreement starts a new type of meter is installed at your Premises or your Distributor's network tariff or the structure of the network tariff is changed, we may change your energy prices to those applicable to that type of meter or to reflect the change in network tariff or in the structure of the network tariff.
- 21.4 We may vary your energy prices, or impose additional charges, in line with changes in your Distributor's network tariff and other prices and charges payable to your Distributor for or in connection with the supply of energy to the Premises.
- 21.5 We may also vary your energy prices or impose additional charges to the extent reasonably necessary to cover increases in our costs in selling energy to you, or in those costs being greater than we estimated when entering into the Agreement. These price variations and additional charges may cover:

- 21.5.1 costs we incur as a result of the introduction of, or a change in, a tax or any other applicable law;
 - 21.5.2 changes in the effective cost to us of the energy we sell you; and
 - 21.5.3 market charges and metering charges.
- 21.6 We must give you notice of any changes or variations to your energy prices and any additional charges, as soon as practicable and no later than in your next bill. If the Premises is in Queensland, we must give the notice at least 10 Business Days before the change or variation takes effect, where your energy prices are increasing or there is a new or increased additional charge.

22. GST

Where an amount payable by you under the Agreement is expressed to be exclusive of GST and is payment for a "taxable supply" as defined for GST purposes, to the extent permitted by law, that payment will be increased so that the cost of the GST payable on the taxable supply is passed on to the recipient of that taxable supply.

23. Your obligations

- 23.1 Title and risk in the energy sold to you under this Agreement will pass to you at the point of connection with the Premises.
- 23.2 You must comply at all times with the Energy Laws.
- 23.3 You must:
 - 23.3.1 ensure your name and contact details (including your nominated addresses for notices and bills) and the details of the Premises are correct in the Important Details;
 - 23.3.2 ensure any other information you give us is correct and not false, misleading or deceptive; and
 - 23.3.3 notify us as soon as possible if information you have provided to us changes, including if your billing address changes or if your use of energy changes (for example, if you start running a business at the Premises).
- 23.4 You must:
 - 23.4.1 make sure the energy equipment at the Premises is in good condition and not damaged in any way; and

- 23.4.2 allow only appropriately qualified and accredited people to carry out any work in connection with that equipment; and
 - 23.4.3 if you are a Business Customer, take reasonable steps to prevent loss on your side of the point of connection which may be caused by difficulties with the quality or reliability of energy supply.
- 23.5 You must not, and must take reasonable steps to ensure others do not:
- 23.5.1 illegally use energy supplied to the Premises;
 - 23.5.2 interfere or allow interference with any energy equipment that is at the Premises except as may be permitted by law;
 - 23.5.3 use the energy supplied to the Premises or any energy equipment in a manner that:
 - (a) unreasonably interferes with the connection or supply of energy to another customer; or
 - (b) causes damage or interference to any third party;
 - 23.5.4 allow energy purchased from us to be used otherwise than in accordance with the Agreement and the Energy Laws; or
 - 23.5.5 tamper with, or permit tampering with, any meters or associated equipment.

24. Energy distribution and supply

- 24.1 Your Distributor is responsible for the connection of the Premises to the distribution system, and the physical supply of energy to the Premises (including the quality and reliability of the energy supplied).
- 24.2 If requested, we will procure connection services for the Premises from your Distributor as required by the Energy Laws, and in any event will arrange for your Distributor to supply energy to the Premises.
- 24.3 The quality and reliability of your energy supply is subject to a variety of factors that are beyond our control, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the distribution system and the acts of other persons (such as your Distributor), including at the direction of a Relevant Authority.
- 24.4 You agree that, due to factors beyond our control, the supply of energy to the Premises may be interrupted.

In those circumstances you will immediately cease or reduce consuming energy at the Premises and will comply with directions from us or your Distributor.

- 24.5 Where reasonably possible and in accordance with the law, we or your Distributor will give you prior notice of supply interruptions (though not necessarily in writing).
- 24.6 If you inform us that supply to the Premises has been interrupted and you want us to notify your Distributor, we will do so as soon as practicable.

25. Disconnection

- 25.1 If you have given us up-to-date contact details, we will give you notice before we disconnect the energy supply to the Premises.
- 25.2 We will comply with the terms, conditions and procedures set out in the Energy Laws when disconnecting the energy supply to the Premises.
- 25.3 We may arrange for disconnection in the following circumstances, subject to the Energy Laws:
- 25.3.1 if you ask us to;
- 25.3.2 if you:
- (a) do not pay your bill by the Due Date; or
 - (b) are on a payment plan with us and fail to comply with the terms of the plan;
- 25.3.3 if you are a Residential Customer:
- (a) you do not pay your bill by the Due Date, and
 - (b) you do not agree to an offer to pay the bill by instalments or, having agreed to the offer, you fail to comply with the instalment arrangement;
- 25.3.4 if your meter has not been able to be read for three consecutive meter readings due to a lack of access to the Premises;
- 25.3.5 if you refuse to provide acceptable identification we are entitled to require from you;
- 25.3.6 if you refuse to provide a Security Deposit;
- 25.3.7 if you use energy at the Premises fraudulently, or intentionally use it contrary to Energy Laws; or
- 25.3.8 if we are otherwise entitled or required to do so under the Energy Laws.

26. Reconnection after disconnection

- 26.1 We will request your Distributor to reconnect the Premises in accordance with the Energy Laws if, within 10 Business Days of the Premises being disconnected:
- 26.1.1 you rectify the matter that led to the disconnection;
 - 26.1.2 you ask us to arrange for reconnection; and
 - 26.1.3 you pay any reconnection charge (if requested).
- 26.2 If you do not meet the requirements in clause 26.1 within 10 Business Days following disconnection, the Agreement will terminate automatically in accordance with clause 28.4.1.

27. Life support equipment

- 27.1 We maintain a register of premises which are home to persons who require life support equipment.
- 27.2 If a person living at the Premises requires life support equipment, you must register the Premises with us or your Distributor. To register, you will need to give written confirmation from a registered medical practitioner of the requirement for life support equipment at the Premises.
- 27.3 We will not disconnect the energy supply to any Premises registered as premises which are home to a person who requires life support equipment.
- 27.4 You must tell us if the life support equipment is no longer required at the Premises.

28. Termination

- 28.1 You can end this Agreement by:
- 28.1.1 having Responsibility for the Premises transferred to another retailer, in which case the Agreement will end when this transfer is completed;
 - 28.1.2 requesting us to disconnect the energy supply to the Premises, in which case the Agreement will end 10 Business Days after disconnection;
 - 28.1.3 entering into a new agreement with us for the sale of energy to you at the Premises, in which case the Agreement will end when sale under the new agreement starts; or
 - 28.1.4 exercising any other express right for you to terminate the Agreement.

28.2 You can also end this Agreement in the circumstances described in clause 13, where you vacate the Premises.

28.3 We can end this Agreement by giving you 20 Business Days' notice.

28.4 This Agreement will also end:

28.4.1 if the Premises are disconnected other than due to your request and you have not met the requirements for reconnection, in which case the Agreement will end 10 Business Days after the date of disconnection;

28.4.2 when another person starts being supplied with energy at the Premises, by us or by another retailer; or

28.4.3 if we are no longer entitled to sell energy due to a Last Resort Event.

29. Consequences of termination

29.1 When this Agreement ends, you must still make any outstanding payments to us.

29.2 If this Agreement ends, and you continue to consume energy at the Premises but have not entered into a new agreement with us or had Responsibility for the Premises transferred to another retailer, then we will continue to sell you energy at the Premises on the terms of our Standing Offer.

30. Liability

30.1 Subject to the Energy Laws:

30.1.1 we are not liable to you for any loss or damage in connection with or arising out of this Agreement, except where we breach this Agreement or are negligent;

30.1.2 you indemnify us if we or any third party suffer any loss or damage in connection with or arising out of your breach of this Agreement or negligence; and

30.1.3 you indemnify us and any third party against any liability in connection with or arising out of the use of energy sold under this Agreement after ownership passes to you.

30.2 Nothing in this clause 30 entitles us to recover from you an amount greater than we would otherwise have been able to recover at law.

30.3 Nothing in the this Agreement varies or excludes any limitation of liability or immunity we have under the Energy Laws.

31. Warranties

31.1 To the extent permitted by law, the only warranties that apply to this Agreement are those that are expressly set out in the Agreement.

31.2 However, you have certain non-excludable rights under the Australian Consumer Law.

32. Privacy

32.1 We will comply with all applicable privacy laws in relation to the collection, use and disclosure of your Personal Information and Sensitive Information.

32.2 We may collect relevant Personal Information and Sensitive Information about you in connection with this Agreement, and you consent to us:

32.2.1 using that information to carry out our rights and obligations under the Agreement; and

32.2.2 disclosing that information to other persons who require it for the purposes of facilitating the supply of energy and relevant services under this Agreement.

32.3 You can find our privacy policy on our website: www.sumopower.com.au.

32.4 If you have any questions, you can contact our privacy officer at privacy@sumopower.com.au.

33. Marketing

33.1 From time to time we will let you know about our products and offers, even after this Agreement ends. If at any time you decide you do not want to receive these offers, please let us know. You can do so by e-mailing us at info@sumopower.com.au or by writing to us at Sumo Power, PO Box 5329, South Melbourne VIC 3205. We will keep providing you with these offers until you tell us otherwise.

34. Notices

34.1 Notices under this Agreement, including bills, must be sent in writing, unless the Energy Laws say otherwise.

34.2 A notice sent under the Agreement is taken to have been received:

- 34.2.1 on the date it is handed to the receiving party, left at the Premises (in your case) or at our registered office (in our case), or successfully faxed (which occurs when the sender receives a transmission report to that effect);
 - 34.2.2 on the date which is 2 Business Days after it is posted; or
 - 34.2.3 on the date of transmission (unless the sender receives notice that delivery did not occur or has been delayed) if sent by email and you have agreed to the use of electronic communications, as set out in the Important Details or in your Energy Plan.
- 34.3 Our contact details for you to contact us or send us notices are as set out in our latest bill, or as otherwise notified to you from time to time.

35. Complaints

- 35.1 You may lodge a complaint with us in accordance with our standard complaints and dispute resolution procedures, which are published on our website: www.sumopower.com.au.
- 35.2 If you make a complaint, we will respond to your complaint in accordance with our standard complaints and dispute resolution procedures, and inform you of the outcome of your complaint and the reasons for our decision.
- 35.3 If you are still not satisfied with our response, you have a right to refer the complaint to the Energy Ombudsman.
- 35.4 If the Premises is in the Australian Capital Territory, we will acknowledge your complaint immediately or as soon as practicable, and respond to it within 20 Business Days. If we do not do either of these things, then you may, within three months, ask us to pay you a rebate of \$20. To claim the rebate, just call us.

36. Inconsistencies

- 36.1 If these Terms and Conditions are different to or inconsistent with the Important Details or with your Energy Plan, the latter prevails. The Important Details prevail over different or inconsistent aspects of your Energy Plan.
- 36.2 If any matter that is required to be included in this Agreement by the Energy Laws is not expressly dealt with in the Agreement, the relevant Energy Law is incorporated as if it were a term of the Agreement.

- 36.3 If there is any inconsistency between this Agreement and the Energy Laws, then this Agreement prevails to the extent of the inconsistency, unless the relevant Energy Law provides that it must prevail.

37. Last Resort Events

If we are no longer entitled by law to sell energy to you due to a Last Resort Event occurring in relation to us:

- 37.1 the Agreement will automatically terminate and you will not be liable for any termination fee or other charge in respect of the termination; and
- 37.2 we will provide relevant information (including your name, billing address and metering identifier) to the entity appointed as the relevant designated retailer for the Last Resort Event.

38. Amending the Agreement

- 38.1 Subject to clause 38.2, we must agree any amendment to the Agreement with you in writing.
- 38.2 To the extent permitted by law, we may amend the Agreement without your agreement:
 - 38.2.1 if we consider it necessary to do so in order to comply with any applicable law or any change in any applicable law; or
 - 38.2.2 if, in our reasonable opinion, the amendment will confer an additional benefit on you, impose an additional obligation on us, or be of neutral impact on you,

provided we comply with all applicable laws in making the amendment.

39. Transferring the Agreement

- 39.1 You may not assign, transfer or novate this Agreement without our prior written consent.
- 39.2 We may:
 - 39.2.1 assign, transfer or novate this Agreement; and/or
 - 39.2.2 transfer you as a customer,

to any of our related bodies corporate or as part of the transfer of all or a substantial number of our customers to a third party, in which case we will notify you of the assignment, transfer or novation.

40. Governing law and jurisdiction

The laws of Victoria apply to this Agreement. You submit to the non-exclusive jurisdiction of the courts in Victoria.

41. Definitions

In this Agreement:

Acceptance Date means the date you sign the Important Details or you accept the Agreement over the phone or online.

Agreement Document means a document evidencing the Agreement and which includes the Important Details, your Energy Plan and these Terms and Conditions.

AEMO means Australian Energy Market Operator Limited ABN 94 072 010 327 or any relevant successor body.

Alternative Benefit has the meaning given in clause 10.2.

Billing Period means the regular recurrent period for which you receive a bill from us, as set out in the Important Details or in your Energy Plan.

Business Customer means a person who consumes energy who is not a Residential Customer.

Business Day means a day other than a Saturday, a Sunday or a public holiday in Victoria.

Disclosure Statement means a statement in writing disclosing important information about the Agreement.

Distributor means the person who operates the system that connects the Premises to the distribution system.

Due Date means the date by which you must pay your bill as set out in the bill, or such other date as we agree with you.

energy means either electricity or gas.

Energy Laws means national and Victorian laws and rules relating to energy and the legal instruments made under those laws and rules, and includes the National Energy Retail Law and the National Energy Retail Rules and, in Victoria, the *Electricity Industry Act 2000* (Vic), the *Gas Industry Act 2001* (Vic) and the Energy Retail Code.

Energy Plan means the document headed as such and which includes the matters specified in clause 10.1.

Energy Ombudsman means:

(a) in South Australia: Energy and Water Ombudsman SA;

(b) in New South Wales: Energy and Water Ombudsman NSW;

(c) in Queensland: Energy and Water Ombudsman Queensland;

(d) in Tasmania: Energy Ombudsman Tasmania;

(e) in the ACT: ACT Civil and Administrative Tribunal; and

(f) in Victoria: Energy and Water Ombudsman Victoria.

Energy Retail Code means the Energy Retail Code made by the Essential Services Commission under section 36 of the *Electricity Industry Act 2000* (Vic) and section 43 of the *Gas Industry Act 2001* (Vic).

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

Important Details means the document headed as such and which includes the matters specified in clause 9.

Last Resort Event means an event that triggers the operation of a retailer of last resort scheme under the Energy Laws.

National Energy Retail Law means the law of that name as is applied by each participating State or Territory.

National Energy Retail Rules means the rules of that name made or applicable under the National Energy Retail Law.

Personal Information has the meaning given in the *Privacy Act 1988* (Cth).

Premises means each premises (of which there may be more than one) specified as such in the Important Details.

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

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

Responsible in respect of a retailer and the Premises means the retailer having wholesale market financial responsibility under the Energy Laws for energy supplied to the Premises and **Responsibility** has a corresponding meaning.

Security Deposit means an amount of money or other arrangement to provide security against you not paying a bill.

Sensitive Information has the meaning given in the *Privacy Act 1988* (Cth).

Small Customer means a Residential Customer or a Business

Customer who consumes energy at or below a level determined under the National Energy Retail Law or, in respect of a Premises in Victoria, means a domestic or small business customer as defined in section 35 of the *Electricity Industry Act 2000* (Vic) or section 42 of the *Gas Industry Act 2001* (Vic).

Standing Offer means the terms and conditions, including the tariffs, of offers we are required to make under section 22 of the National Energy Retail Law or section 35 of the *Electricity Industry Act 2000* (Vic) or section 42 of the *Gas Industry Act 2001* (Vic), as the case may be, and published on our website: www.sumopower.com.au.

We, us or our refers to:

- (a) in relation to the sale of electricity, SparQ Pty Ltd ABN 86 601 199 151; and
- (b) in relation to the sale of gas, SparQ Gas Pty Ltd ABN 67 606 951 713,

trading as Sumo Power.

You or your refers to the customer identified in the Important Details.

42. Are you still a Small Customer?

42.1 You must tell us if the amount of energy you use changes significantly during the term of this Agreement, or if you cease using energy at the Premises principally for personal, household or domestic use, because this may mean you are no longer a Small Customer.

42.2 If:

- 42.2.1 you cease to be a Small Customer in respect of the Premises; and
- 42.2.2 you have consumed more than 100MWh of electricity or 1TJ of gas at the Premises in a year,

then, despite any other provision of this Agreement:

- 42.2.3 we may change your energy prices to either the Standing Offer tariffs applicable to small business customers with your network tariff or whatever we consider is reasonably necessary to recover from you:
 - (a) the effective cost to us of the energy we sell you; and
 - (b) all related costs incurred in connection with selling you energy including network costs, market costs, metering costs, retail costs and

costs arising in connection with the Mandatory Renewable Energy Target scheme and other government renewable energy, greenhouse gas reduction, energy efficiency and similar environmental schemes;

- 42.2.4 we may notify you that, if you do not enter into an alternative arrangement for the Premises with us within 20 Business Days of our notice, we may disconnect energy supply to the Premises;
- 42.2.5 we are entitled to arrange disconnection of the Premises in the circumstances contemplated by clause 42.2.4; and
- 42.2.6 if the Premises are disconnected under this clause 42.2, you have no right of reconnection and this Agreement will end at the time of disconnection.

sumo

SparQ Pty Ltd
ABN: 86 601 199 151

SparQ Gas Pty Ltd
ABN: 67 606 951 713

South Melbourne Market Street
PO Box 5329
South Melbourne, VIC 3205

Enquiries **13 88 60**

sumopower.com.au

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