

**NEGOTIATED CONNECTION CONTRACT**

between

**The Distributor**

and

**The 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 or arrange the construction of 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:

"AEMO"	means the Australian Energy Market Operator Limited ACN 072 010 327 and includes any body which is the successor to the administrative responsibilities of that company.
"Agreement for Lease"	means an agreement for lease 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).
"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;
"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.
"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 Electricity 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"	means the code 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.
"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.
"Land"	means the land specified in item 2 of Schedule 1.
"Maximum Capacity"	means the import/export rates specified in item 4 of Schedule 1.
"Memorandum of Agreement"	means the agreement to grant an easement in favour of the Distributor in the form attached as Annexure A (if any).
"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"	means the market for wholesale trading in electricity operated by AEMO under the

<b>"Market"</b>	National Electricity Law and the National Electricity Rules.
<b>"National Electricity Rules"</b>	means the rules made under the National Electricity Law.
<b>"Premises"</b>	means the premises within the Land upon which the Works will be constructed.
<b>"Registered Easement"</b>	means an easement in favour of the Distributor in the form attached as Annexure A (if any).
<b>"Registered Proprietor"</b>	means the registered proprietor of the Land and if more than one, includes all registered proprietors of the Land.
<b>"Security Fee"</b>	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.
<b>"SF Term"</b>	means a period of 5 years commencing on the Completion Date.
<b>"SF Year"</b>	means each 12 month period commencing on the Completion Date and each anniversary of the Completion Date.
<b>"Shortfall"</b>	means the amount by which the Anticipated Electricity Consumption in any SF Year exceeds the Actual Electricity Consumption in the same SF Year.
<b>"Special Conditions"</b>	means the Special Conditions (if any) provided in item 14 of Schedule 1.
<b>"Specification"</b>	means the details specified in item 3 of Schedule 1.
<b>"Start Date"</b>	means the date specified in the Construction Program for commencement of the Works.
<b>"Substation Lease"</b>	means a lease in favour of the Distributor in the form attached as Annexure A (if any).
<b>"Term"</b>	has that meaning given to it in Clause 2.
<b>"Works"</b>	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, a Registered Easement or Memorandum of Agreement 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 Memorandum of Agreement, 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.

## **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.

### **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.

### **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) where:
  - (i) there is a physical condition on the Land or its near surrounds 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 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 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 automatically extended by the same number of Business Days during which the Distributor stops carrying out the Works.

### **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 if:
  - (i) it becomes apparent upon completion of the Construction Design that the Construction Program 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;
  - (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;
  - (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, or the *Road Management Act (Vic)* 2004 (or any regulations or determinations under that Act);
  - (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 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, contaminated soil and/or contaminated water; or
  - (xiv) 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 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 may terminate this Contract immediately. Unless it is not reasonable to do so or the Customer requests otherwise, the Distributor will stop carrying out the Works during the 10 Business Days period. The Completion Date will be automatically extended by the same number of Business Days during which the Distributor stops carrying out the Works.
  - (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 and all statutory 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; and
    - (v) undertake all vegetation clearing to the reasonable satisfaction of the Distributor (including obtaining any permit or statutory approval necessary to clear any vegetation).
  - (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 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.

- (d) 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.
- (e) 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

In consideration of the Distributor constructing the Works, the Customer agrees 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 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. For the avoidance of doubt, such reasons include circumstances where:
  - (i) no allowance was made for the removal of rock where rock was not discovered in trial holes but was discovered between boring holes once construction started and it is not reasonable to seek the Customer's prior written consent having regard to demobilisation costs and the timeframe to complete the Works under permit conditions,
  - (ii) no allowance or an insufficient allowance was made for the removal of contaminated soil and/or water; or
  - (iii) there is a physical condition on the Land or its near surrounds which differs from the physical conditions which should reasonably have been anticipated by the Distributor.
- (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 AEMO's fees and charges

- (a) The Customer acknowledges that in respect of applications for generator connections in the National Electricity Market, the Charges calculated by the Distributor will include an estimate of fees and charges payable by the Customer to AEMO ("Estimated AEMO Fees") for assessing the application to connect.
- (b) If, at the Completion Date, the actual fees and charges charged by AEMO ("Actual AEMO Fees") is greater than the Estimated AEMO Fees, the Distributor will notify the Customer in writing of the shortfall (Actual AEMO Fees less Estimated AEMO Fees), which shortfall will be a debt due and payable to the Distributor. The Customer must pay the Distributor the shortfall as a lump sum payment on or before the due date specified in the Distributor's invoice.
- (c) If, at the Completion Date, the Actual AEMO Fees is less than the Estimated AEMO Fees, the Distributor will notify the Customer in writing of the excess (Estimated AEMO Fees less Actual AEMO Fees), and will give the Customer a refund of the excess.

### 5.4 Security Fee

- (a) 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 5.4(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 5.4(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.

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.

## 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 AND INDEMNITY OF CUSTOMER

The Customer hereby indemnifies and agrees to keep the Distributor indemnified against all claims, actions, demands, proceedings, liabilities, damages, amounts, costs and expenses (including legal costs and disbursements on a solicitor and own client basis) arising, paid, suffered or incurred by the Distributor (directly or indirectly) as a result of or in connection with a negligent act or omission by the Customer, or any breach or non-performance of any express or implied obligations of the Customer under this Contract, or any breach of or non-performance of an obligation imposed on the Customer by any law.

## 8. EXCLUSIONS AND LIMITATION OF 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 to the extent it is caused by the Distributor's acts or omissions.

## 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 Electricity Distribution Contract.

## 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.
- (c) The Customer must comply with the "Victorian Electricity Distributors Service & Installation Rules" as amended from time to time. The Customer acknowledges that this is a reasonable requirement as contemplated by clause 2.6.1(d) of the Electricity Distribution Code.

## 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, or 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. The Customer acknowledges that this is a reasonable requirement as contemplated by clause 2.6.1(d) of the Electricity Distribution Code.
- (c) If after the Works are completed, 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), 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.

## 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

- (a) 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.
- (b) Where the Distributor provides electricity supply to another person from the Works as contemplated by clause 11(a) ("Subsequent Electricity Supply") and provided that the Customer qualifies for the reimbursement under the published cost sharing protocol as set out in the Distributor's Connection Policy at the time of the Subsequent Electricity Supply, the Distributor may reimburse the Customer a proportion of the Charges determined in accordance with that protocol.

## 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.
- (b) Clauses 5, 6, 7, 8, 10 and 13 will survive the termination of this Contract.
- (c) Where this Contract is terminated before the Distributor has completed the Works, the Distributor will reimburse to the Customer the Charges after deducting:
- (i) charges for Works already carried out by the Distributor under this Contract up to the date of termination; and
  - (ii) in the case of termination by the Distributor for breach by the Customer, any other costs or losses incurred by the Distributor as a result of the termination.
- (d) Where this Contract is terminated before the Distributor has completed the Works and the Customer was not required to pay any Charges, The Distributor may invoice the Customer for:
- (iii) charges for Works already carried out by the Distributor under this Contract up to the date of termination; and
  - (iv) in the case of termination by the Distributor for breach by the Customer, any other costs or losses incurred by the Distributor as a result of the termination.
- (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 Conditions 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. 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 an authorised person giving the Notice;
  - (iii) addressed to the person specified in item 11 of Schedule 1; 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) 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.

**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

.....  
Print Name

.....  
Position

Date: .....

Powercor Ref : 307497226  
Land ::Example Estate Stage 1

## Schedule 1 of Negotiated Connection Contract

### 1. Parties To This Contract

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#### The Distributor

Name & ABN of the Distributor:	Powercor Australia Ltd ABN: 89 064 651 109
Registered office address:	40 Market Street, Melbourne, Victoria
Postal address of the Distributor:	Locked Bag 14090, Melbourne, Victoria, 8001
Email :	URD@Powercor.com.au

#### The Customer

Customer Name:	Company Pty Ltd
Postal Address:	123 Name Street City VIC 9999

### 2. Land (clause 1.1):

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Land :	Example Estate Stage 1
Subdivision Name / Plan	PSXXXXXXXX
Lot Nos:	As per subdivision plan
New Land Use:	Residential
Number of Lots:	1
Municipality:	Council Name

### 3. Specification (clause 1.1):

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Incremental capacity:	40 Amps per lot, single phase.
Wire configuration:	2 wire connection to each lot.
Nominal supply voltage:	230 Volts

### 4. Maximum Capacity (clause 10.3):

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(a) Import of electricity:	40 Amps per lot, single phase.
(b) Export of electricity:	0 Kilowatts per lot

### 5. Cost sharing protocol (clause 11(b)):

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The Customer does not qualify for reimbursement under the cost sharing protocol published by the Distributor from time to time.

### 6. Permits to be obtained by the Distributor (if applicable) (clause 4.5(a)(ii)):

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The Distributor will obtain road opening permits required for works completed by the distributor only.

### 7. Reinstatement by the Distributor (if applicable) (clause 4.5(a)(iii)):

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The Works include provision for temporary and permanent reinstatement of the Distributor's excavations as required

### 8. Charges (clause 5):

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GST exclusive Charges payable:	\$1
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### 9. Notices (clause 13.5):

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Addresses for Notices to be given under this Contract will, until the addressee notifies the other party in writing otherwise, be as follows:

**The Distributor**  
Powercor Australia Ltd  
Locked Bag 14090  
Melbourne VIC 8001  
Telephone: 1800 771 434  
Facsimile: 03 9683 5156  
Email: URD@powercor.com.au

**The Customer**  
Company Pty Ltd  
123 Name Street  
City VIC 9999  
Telephone : 01 2345 6789

**10. The Distributor's Responsible Officer (clause 13.6(a)):**

Responsible Officer : Mike Williams

**11. Customer's Responsible Officer (clause 13.6(b)):**

Responsible Officer : Customer's PM Name

**12.(a) Description of Works (clause 1.1):**

- Undertake Construction Design
- Test and commission substation(s), high voltage & low voltage cables, public lighting and service pits installed by the Customer as required per drawing no.
- Tie in new assets to the Distributor's network in accordance with approved drawing(s) no's PCA40/000000/1

**12.(b) Connection Point (clause 1.1):**

Cable termination inside each service pit, customer owned connection facility on the customers property or substation low voltage terminals per approved drawing(s) ref 12(a).

**13. Construction Program (clause 4.2(a)):**

**Project Milestones**

Start Date

Tie in works / Completion Date

Statement of Compliance (if applicable)

**Initiated By/Estimated Duration**

The later of Commencement Date or payment of the Charges  
10 weeks from receipt of certificate of practical completion unless notified in writing by Powercor's responsible officer.

Following acceptance of the customers 'certificate of practical completion' and all works included in *clause 15* have been completed by the customer.

**14. Special Conditions (clause 13.1):**

The Customer shall be responsible for:

- Submitting a provisional Customer Works program outlining critical construction dates.
- Providing the Distributor with names & contact details of key personnel.
- Directing connection and metering enquiries to the Distributor's online connection portal: [www.Powercor.com.au](http://www.Powercor.com.au) > Our Services > Electricity Connections > eConnect.
- Following completion of the Works, submitting a Tax Invoice to the Distributor for the amount of \$1 + GST to claim the Distributor's high voltage equalisation rebate and a separate invoice of \$1 + GST to claim the Distributor's network contribution rebate.
- Advising all potential property purchasers of proposed electrical assets to be installed on private property and reserves, including location, impact on the property and any access/restriction the assets may impose. This includes pillars, poles, bollards, substations, switching cabinets, cables or other assets in easement and pits.
- The customer agrees that Powercor Australia Ltd may generate a Recipient Created Tax Invoice (RCTI) for any rebates payable by Powercor. Rebates will be processed on submission and acceptance by Powercor of the Certificate of Practical Completion. A copy of any RCTI generated by Powercor will be made available to the customer via mySupply.

**15. Customer Works (clause 4.5(a)):**

- A. Supply and installation of consumer's mains between each service pit and main switchboard, for termination in the pit by the Distributor.
- B. Supply and installation of load control equipment on each electrical installation to ensure that the Maximum Capacity is not exceeded.

**16. Security Fee (clause 5.4):**

The Customer is NOT required to pay a Security Fee