

# Here's all the fine print.

(Yes, it's dull. But it's important.)



## **What's in this brochure?**

**It's full of the important stuff you need to know about your agreement with us. All your terms and conditions, including things like:**

- **What to do if you think a bill's incorrect (p11)**
- **How we protect your private information (p19), and**
- **What all those energy terms mean (p22).**

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## **MARKET RETAIL TERMS FOR SMALL CUSTOMERS**

Momentum Energy Pty Ltd ABN 42 100 569 159 of Level 10, 4-12 Elizabeth St, Hobart, Tasmania 7000 (**us** or **we**) and you have entered into a retail contract for the sale of energy.

These Market Retail Terms For Small Customers (**Market Terms and Conditions**) form part of the Contract between us and you and are our usual market retail terms for the sale of energy to domestic and small business customers in the Australian Capital Territory, South Australia, Queensland, New South Wales and Victoria.

## **THE CONTRACT**

### **1. Parts of the Contract**

1.1 The Contract between you and us is made up of the following documents:

- (a) the Details (incorporating the Disclosure Information);
- (b) the Special Terms (if any);
- (c) these Market Terms and Conditions;
- (d) any other document incorporated into this Contract by express reference.

1.2 To the extent that any term or condition that a Regulatory Instrument requires to be included in the Contract is not expressly included in these terms, that term or condition is incorporated into these terms (subject to any necessary adaptation) to the extent that this Contract is covered by the Regulatory Instrument.

1.3 These Market Terms and Conditions apply in relation to energy, being electricity and gas. If we are your retailer for both electricity and gas, you have one contract with us for electricity and another separate contract with us for gas.

1.4 To the extent of any inconsistency within the Contract, the Special Terms prevail first and any Details prevail second.

### **2. The agreement**

2.1 We will sell energy to you, and you will purchase energy from us and accept the supply of energy at your Supply Address, in accordance with this Contract. We may also provide, or arrange for the provision of, other services (such as metering services), which are related to our sale of energy to you in accordance with this Contract.

2.2 You acknowledge that you are choosing us as your energy retailer and you give your explicit informed consent to:

- (a) enter into this Contract with us; and
- (b) if we are not already the retailer for your Supply Address, your Supply Address being transferred to us.

## **COMMENCEMENT OF CONTRACT**

### **3. When the Contract commences**

3.1 The Contract is legally binding and so commences from the date you accept our offer to sell energy to you. You accept our offer by:

- (a) signing the offer letter or other offer document we provide to you and returning this to us;
- (b) if you accept our offer over the telephone, verbally accepting our offer; or
- (c) if you use online sign-up, as specified in the online sign-up process.

3.2 However, the sale of energy under this Contract will not commence until the Supply Start Date.

## **4. Credit Check**

4.1 You expressly consent to us:

- (a) obtaining Personal Information or any other information in relation to your commercial credit standing or commercial dealings (including default information) from a business that provides such information; and
- (b) using such information for the purpose of conducting a credit assessment of you or for the purpose of collecting overdue payments in relation to commercial credit, prior to us starting to sell energy to you or at any time during the Contract, in accordance with our Privacy Statement.

4.2 If before the Supply Start Date (or if there are multiple Start Dates, the first of them):

- (a) we decide that we are not satisfied with information supplied by or about you or with your credit standing; and
- (b) we request you provide security under clause 25 and you fail to comply with that clause, we may terminate the Contract by giving notice to you, in which case the Contract will end on the date specified in the notice, and we may charge you an exit fee calculated in accordance with clause 40.

## **COMMENCEMENT OF SALE OF ENERGY**

### **5. Preconditions to the sale of energy**

5.1 The conditions that must be satisfied before the commencement of the sale of energy to a Supply Address under this Contract are:

- (a) your Supply Address is connected to the network;
- (b) all relevant metering equipment is installed at the Supply Address and, if agreed with or required by us in accordance with this Contract, or required by your distributor, has been upgraded, and there is safe and unobstructed access to the metering equipment;
- (c) you have provided to us any credit history information if required by us and we are satisfied that you have an adequate credit rating or are otherwise able to meet your payment obligations under this Contract; and
- (d) you have provided us with any security required by us under clause 25.

5.2 If you do not satisfy the conditions under clause 5.1, and if permitted by the Regulatory Instruments, we may terminate the Contract by giving notice to you. The Contract will end on the date specified in the notice. If permitted by the Regulatory Instruments, we may charge you an exit fee calculated in accordance with clause 40.

### **6. Cancellation during Cooling-off Period**

6.1 You may cancel the Contract without any cost (except for Pass-Through Costs incurred as a result of a request made by you, for example, where you require your meter to be upgraded within this period) by giving us notice orally or in writing within the Cooling-off Period, even if you have already agreed to or accepted the Contract. The notice must clearly indicate your intention to cancel the Contract.

6.2 If you cancel this Contract during the Cooling-off Period, we will create and retain a record of your cancellation in accordance with the Regulatory Instruments.

### **7. Supply Term**

7.1 If the Details indicate that the Contract has a Supply Term, our obligation to sell you energy at a Supply Address and your obligation to pay us the Charges for that energy:

- (a) starts on the Supply Start Date:

- (i) if you are transferring that Supply Address to us from another retailer, the date on which we become Responsible for that Supply Address; or
- (ii) if you are an existing customer of ours for that Supply Address, the date on which the last of the preconditions detailed in clause 5.1 is satisfied (or waived by us) in relation to that Supply Address; or
- (iii) if the Supply Address has not previously been connected, the later of:
  - (1) the date on which the last of the preconditions detailed in clause 5.1 is satisfied (or waived by us) in relation to that Supply Address; and
  - (2) the date on which we become Responsible for that Supply Address; and
- (b) ends on the **Supply Term End Date**, which is:
  - (i) the last day of the period expressed as the Supply Term in the Details, calculated from the Supply Start Date; or
  - (ii) where the Supply Term or the Contract is terminated earlier under this Contract, the date on which it terminates.

7.2 The period from the Supply Start Date to the Supply Term End Date (inclusive) is the **Supply Term**.

7.3 Subject to clause 6 and clause 7.1(a), we will supply you energy during the Cooling-off Period where we are permitted to do so by law.

7.4 If this Contract is for multiple Supply Addresses, the Supply Term End Date will be the same for all Supply Addresses and is calculated from the earliest occurring Supply Start Date under this Contract, unless the Supply Term is terminated early with respect to any particular Supply Address.

7.5 If you are not an existing customer of ours at a Supply Address, we will use reasonable endeavours to ensure that we are Responsible for the Supply Address as soon as practicable (provided all preconditions in clause 5.1 are satisfied by you or waived by us).

7.6 For the purposes of clause 7.5, we intend to facilitate the transfer of the Supply Address to us as at your next scheduled meter read or as otherwise agreed. Where you may request us to enable an earlier transfer, you agree to pay the associated costs.

7.7 If we are unable to transfer your Supply Address under clause 7.6, and if permitted by the Regulatory Instruments, we may terminate the Contract by giving notice to you. The Contract will end on the date specified in the notice. If permitted by the Regulatory Instruments, we may charge you an exit fee calculated in accordance with clause 40.

7.8 We are not liable for any delays in effecting the transfer or any exit fees, special meter read fees or other amounts you must pay the retailer you're transferring from.

7.9 If the Supply Start Date occurs before all the preconditions in clause 5.1 are satisfied, we may still require those conditions to be satisfied after the Supply Start Date. Any waiver of the preconditions by us:

- (a) will be taken to be only a waiver of our rights to have those preconditions satisfied before the Supply Start Date; and
- (b) will not be taken to be a waiver of our rights to have those preconditions satisfied at all, unless we expressly state otherwise.

7.10 The end of the Supply Term does not, of itself, automatically end the Contract. (For example, clause 9 may apply.)

## **8. Sale of energy where no Supply Term**

8.1 If this Contract does not have a Supply Term, our obligation to sell

you energy at a Supply Address and your obligation to pay us the Charges for that energy:

- (a) starts on the Supply Start Date; and
- (b) ends on the Final End Date.

## **9. Energy consumed after the Supply Term**

9.1 If after the end of a Supply Term:

- (a) you or another person continue to consume energy at a Supply Address;
- (b) we continue to be Responsible for the Supply Address; and
- (c) we have not:
  - (i) entered into a new contract for the Supply Address (with you or another person) under which sale of energy to the Supply Address has commenced (including a deemed customer retail arrangement under the National Energy Retail Law); or
  - (ii) commenced a new Supply Term under clause 37;

unless you have complied with clause 41 you will be responsible, in accordance with clause 9.2, for all Charges in relation to energy consumed at the Supply Address from the day after the Supply Term End Date until the Final End Date.

9.2 For the purpose of clause 9.1, any energy sold between the Supply Term End Date and the Final End Date will be on the same terms as this Contract (other than provisions expressed to apply only during the Supply Term) other than that:

- (a) the Charges will be our Standing Offer Prices for the State or Territory in which the Supply Address is located (which will be provided to you on request); and
- (b) If clause 15 (GreenPower) is applicable to the Contract, you may cease to be eligible for our GreenPower product and, if so, you will no longer be responsible for paying GreenPower Charges.

## **10. Classification as a Small Customer**

10.1 We will apply the relevant Regulatory Instruments to you, and you agree to comply with them if you are a Small Customer.

10.2 You must notify us if you cease to be a Small Customer (as defined under this Contract) at a Supply Address or if you anticipate you will cease to be a Small Customer at a Supply Address.

10.3 If clause 10.2 applies or we reasonably believe that you are or will cease to be a Small Customer, we may give you notice that the Supply Term for the relevant Supply Address is terminated. In which case, if we so request, you agree to negotiate in good faith a Large Customer Contract with us.

## **RATES AND CHARGES**

### **11. Payment**

11.1 You must pay us the Charges for all energy supplied to your Supply Address.

11.2 If GST is payable on a supply made by us under or in connection with the Contract, you must pay us an additional amount equal to the amount of that GST at the same time as any other Charges are due for that supply. The bill to be issued to you under clause 17 will be in the form of a tax invoice.

### **12. Charges**

12.1 The initial Charges are set out in the Details.

12.2 You must pay us for the Charges, as set out below:

- (a) Energy Charges, which are made up of:

- (i) Usage Charges;
- (ii) Daily Supply Charges; and
- (b) GreenPower Charges (if applicable);
- (c) any merchant service fees under clause 21.4;
- (d) any fees for dishonoured payments under clause 21.4
- (e) except if your Supply Address is located in Victoria (if the Regulatory Instruments apply to you), any late payment fees under clause 21.5;
- (f) any exit fees under clause 40;
- (g) any applicable connection, disconnection or reconnection fees (which may include a disconnection fee after you move out of a Supply Address);
- (h) additional costs related to your meter that are incurred at your request or due to your act or omission, such as fees for a special meter read, installation of a new meter or meter repair (but not including a scheduled meter read or any meter repair or installation as a result of a faulty meter where you were not responsible for causing the fault);
- (i) any demand charges imposed by your distributor;
- (j) fees for printed bills if we may charge a fee under clause 19;
- (k) any other fees or charges imposed by your distributor due to something specific to your needs (not including ordinary charges for use of the networks); and
- (l) any other amounts contemplated or permitted by this Contract.

### **13. Usage Charges**

13.1 Usage Charges during a Billing Period for a Supply Address for which Peak Rates and Off Peak Rates (and, if applicable, Shoulder Rates) are specified in the Details will be calculated as the sum of:

- (a) the Usage Quantity during Peak Periods during that Billing Period multiplied by the applicable Peak Rate for that Supply Address;
- (b) the Usage Quantity during Shoulder Periods (if any) during that Billing Period multiplied by the applicable Shoulder Rate (if any) for that Supply Address; and
- (c) the Usage Quantity during Off Peak Periods during that Billing Period multiplied by the applicable Off Peak Rate for that Supply Address.

13.2 Usage Charges during a Billing Period for a Supply Address for which only Peak Rates (but not Shoulder Rates or Off Peak Rates) are specified in the Details will be calculated by multiplying the Usage Quantity for all times of day during that Billing Period by the applicable Peak Rate for that Supply Address.

13.3 Usage Charges during a Billing Period for Controlled Load (if any) at a Supply Address will be calculated by multiplying the Controlled Load Usage Quantity during Controlled Load Periods on separately metered configurations during the Billing Period multiplied by the applicable Controlled Load Rate for that Supply Address.

13.4 Where the Details specify:

- (a) more than one Peak Rate and a Step Limit; and/or
- (b) more than one Off Peak Rate and a Step Limit,

then the application of these Rates will be as specified in the Details.

13.5 For the purposes of clause 13.4, where the application of the Rates is not specified in the Details, Step Limits will be applied sequentially against the average daily Usage Quantity, which is derived by dividing the total Usage Quantity listed on the bill by the number of days in the Billing Period.



## 14. Variation of the Charges

14.1 If the information you gave us, or which was otherwise available to us, about your meter does not properly reflect the metering services required at your Supply Address under the Regulatory Instruments, we may vary the Charges accordingly.

14.2 If we determine that you were not eligible for the product, plan, or offer set out in the Details at the time you entered into this Contract, or if you become ineligible for that plan, we may transfer you to a different plan appropriate to your circumstances.

14.3 If we become aware of any change in the distribution tariff the distributor applies in relation to the Supply Address, we may transfer you to the applicable category of tariff with effect from the time of that change (on the prevailing rates for that new tariff), which may result in a variation to your Charges from that time.

14.4 If we become aware of any change in your ability to satisfy conditions applying to your current category of tariff (whether or not you inform us of such a change), we may transfer you to the applicable category of tariff, which may result in a variation to your Charges.

14.5 Unless otherwise specified in your Special Terms:

- (a) we may vary the Charges to reflect any changes in the Pass-Through Costs (being changes from either actual or estimated levels), to reflect any new Pass-Through Costs or to allow us to fully recover our Pass-Through Costs; and
- (b) if the Contract has a Supply Term, we may vary the Usage Charges component of the Charges (excluding any Pass-Through Cost component of those Usage Charges) each year to reflect any change in the Australian Bureau of Statistics' Consumer Price Index (All Groups Weighted Average of Eight Capital Cities) over the preceding twelve months.

14.6 Where your Contract has no Supply Term (for example where there is no Supply Term stated in the Details), we may vary the Charges at any time (subject to clause 14.8). This may include variations to the structure or the nature of the Charges.

14.7 If, after the date that you and we enter into this Contract:

- (a) a new Tax is imposed or the basis for imposing or calculating any Tax changes;
- (b) we incur any liability, cost or reduction in benefit due to or arising from the introduction of a new law or Regulatory Instrument, a change to a law or Regulatory Instrument or a change to the interpretation of a law or Regulatory Instrument; or
- (c) we incur any liability, cost or reduction in benefit due to or arising from a change to the rules of the National GreenPower Accreditation Program,

and we reasonably determine that there is any increase in the direct or indirect cost to us of purchasing or selling energy to your Supply Address, then we may, at our discretion, impose such additional amounts or vary the Charges as we consider necessary to recover the increase in our costs.

14.8 If the Charges vary during a Billing Period and metering data for a Supply Address is not available on a daily basis, we will calculate the Usage Quantities before and after the variation on a proportionate basis.

14.9 We may otherwise vary the Rates and Charges in accordance with the Special Terms applicable to the plan you have chosen and, if we do so, we will give you details of the variation.

14.10 We will notify you in writing of any variations to the Charges under this Contract in accordance with the Regulatory Instruments.

## **15. GreenPower**

15.1 This clause 15:

- (a) applies if the Details specify that you have chosen our GreenPower product for all or part of your energy Usage; and
- (b) ceases to apply if we are unable to continue to provide our GreenPower product for any reason or we cease to be a GreenPower Provider under the National GreenPower Accreditation Program.

15.2 You must pay the GreenPower Charges in addition to other Charges payable under this Contract.

15.3 The GreenPower Charges in a Billing Period are calculated as the total Usage Quantity at all relevant Supply Addresses (or that proportion of it specified in the Details) during that Billing Period multiplied by the GreenPower Rate.

15.4 We will ensure that energy from accredited GreenPower sources, equivalent to the proportion of your energy Usage nominated by you and detailed in the Details, is generated and exported into the national electricity grid, in accordance with the rules of the National GreenPower Accreditation Program.

15.5 As the energy supplied to your Supply Address under this Contract is sourced from the national electricity grid into which generated energy (from both renewable and non-renewable energy sources) is pooled, you acknowledge that you will not necessarily receive GreenPower accredited energy directly to your Supply Address.

15.6 You must provide reasonable notice if you request that you no longer wish to purchase our GreenPower product for all or part of your energy Usage.

## **16. Special Terms**

16.1 If the Details specify that you have chosen our SmilePower product or our SmilePower Flexi product, the special terms set out in Schedule A apply.

16.2 If the Details specify that you have chosen any particular plan, additional Special Terms may apply.

## **BILLING AND PAYMENT**

### **17. Billing**

We intend to bill you:

- (a) in accordance with the billing period requested by you; or
- (b) if we are not able to bill you in accordance with clause 17(a), we will do so in accordance with the Regulatory Instruments.

### **18. Actual and estimated bills**

18.1 We may provide you with a bill based on an estimate of the energy consumed at your Supply Address where we are not able to reasonably or reliably base a bill on an actual meter reading, or where metering data is not provided to us by the responsible person. We may also use estimates where we bill you monthly but do not obtain meter readings monthly. You give us your explicit informed consent to us using estimations in this manner.

18.2 If, having provided you with an estimated bill, we later obtain a meter reading or more reliable data, we will adjust your next bill appropriately. Unless the actual meter reading or metering data could not be obtained as a result of an act or omission on your part, we may, if requested by you, offer you time to pay any undercharged amount by agreed instalments, over a period being no longer than, if:

- (a) the period during which an actual meter reading or metering data was not obtained (where that period is less than 12 months); or

(b) in any other case, 12 months.

18.3 We will use our best endeavours to ensure your meter is read at least once in any 12 month period.

18.4 If you cause an attempt to read your meter to be unsuccessful and you ask us to replace an estimated bill with a bill based on a meter reading, we will do so and may pass through to you any costs we incur in doing so.

## **19. Form of bills**

We may charge a printed bill fee for paper bills that we post, if you choose to have your bills posted to you. Email delivery of bills does not incur this fee.

## **20. Billing disputes and adjustments**

20.1 You can ask us to review the bill. During the bill review you must pay either that portion of the bill that is not in dispute, or an amount equal to the average amount of your bills in the previous 12 months (whichever is the lower), and also any other bills due. Where the bill is found to be correct you must pay the unpaid amount. Where the bill is found to be incorrect we will adjust the bill in accordance with clause 20.2 or 20.3.

20.2 If we become aware that we have overcharged you, we will notify you and refund that amount in accordance with the Regulatory Instruments.

20.3 If we become aware that we have undercharged you, we will bill you for the amount undercharged in accordance with the Regulatory Instruments, for the period permitted by the Regulatory Instruments.

20.4 If the undercharging occurred because of a fault (such as your failure to comply with clause 30) or unlawful act or omission on your part then we may bill you for the entire unpaid amount for the full period during which the undercharging occurred.

20.5 If the Regulatory Instruments:

- (a) apply to you, you may pay us the recoverable undercharged amount by agreed instalments over a period nominated by you, being no longer than:
  - (i) the period over which the recoverable undercharging occurred (where that period is less than 12 months); or
  - (ii) in any other case, 12 months, and
- (b) do not apply to you, we may require you to pay the undercharged amount by the due date stated on the bill issued in accordance with clause 20.3(b).

## **21. Paying your bills**

21.1 You must pay us by the due date stated on your bill.

21.2 You may pay your bills by any of the methods that are set out in the Details or as otherwise agreed from time to time.

21.3 Where you have selected to pay your bill by direct debit you agree to comply with the terms set out in our direct debit service agreement.

21.4 You may also be required to pay us any merchant service fees we incur because of the payment method you use and for costs imposed on us if, due to fault on your part, payments you make to us are dishonoured or reversed.

21.5 If a bill is not paid on time, we may (subject to the Regulatory Instruments):

- (a) charge you a late payment fee, unless your Supply Address is located in Victoria or you are a hardship customer as defined in the relevant Regulatory Instrument if the Regulatory Instruments apply to you;

- (b) seek to have your Supply Address disconnected in accordance with the Regulatory Instruments (after following the required procedures if the Regulatory Instruments apply to you); and
- (c) take steps against you including legal proceedings to recover the overdue amount and our related costs. Before we take such steps, however, we will comply with all Regulatory Instruments relating to any payment difficulties you may have if the Regulatory Instruments apply to you.

## **22. Prompt Payment Discount**

22.1 This clause 22 applies if a percentage is specified under “PPD%” in the Details.

22.2 The Prompt Payment Discount is a percentage discount applied to the total Energy Charges (after we have applied GST) for each Billing Period and applies if you pay a bill in full on or before the due date.

22.3 If by the due date stated on your bill you pay the total amount owing on your bill less an amount representing the Prompt Payment Discount (as shown on your bill), you are taken to have paid the full amount of your bill.

22.4 If after the due date stated on your bill you pay the total amount owing on your bill less an amount representing the Prompt Payment Discount (as shown on your bill), the amount representing the Prompt Payment Discount will remain outstanding.

22.5 You acknowledge and agree that:

- (a) if payment of a bill is dishonoured, the Prompt Payment Discount may not apply to the bill in respect of which the payment was made;
- (b) we will not apply the Prompt Payment Discount to any opening balances or adjustments on your bill; and
- (c) the Prompt Payment Discount will not apply to any payment plan you may have with us unless we agree.

## **23. Other discounts, credit or special offers**

23.1 If this Contract provides for a one-off dollar amount discount or such other discount, special offers or credit specified in Special Terms or the Details, this amount will be credited or applied in accordance with the Special Terms.

## **24. Payment assistance**

24.1 You must contact us if you anticipate it may not be possible for you to pay a bill on time.

24.2 If it is difficult for you to pay your bills, our hardship and payment assistance policies set out the options that may be available to you.

24.3 If you are consistently late paying your bills, we may place you on a shortened collection cycle provided that:

- (a) you are not experiencing payment difficulties; and
- (b) we have complied with the relevant Regulatory Instruments.

24.4 We will accept advance payment from you. However, we will not pay any interest on advance payments and, before the Contract terminates, will not refund any amount paid in advance.

## **25. Security**

25.1 Where the Regulatory Instruments permit, we may require you to give us a security deposit.

25.2 Where we require you to give us a security deposit, the amount of the security deposit will be determined by us and we will pay you interest on the security deposit at a 90 day bank bill rate. Interest is to accrue daily and is to be capitalised, if not paid, every 90 days.

25.3 Where we require you to give us a security deposit, we will be entitled to apply the security deposit and accrued interest against, or draw on it for, any amount you owe us under the Contract if:

- (a) you fail to pay a bill and the failure results in a disconnection of the Supply Address and there is no contractual right to reconnection; or
- (b) in relation to the issue of a final bill, you vacate the Supply Address, request disconnection of the Supply Address or transfer to another retailer,

and we provide to you an account of its use.

25.4 If you give us a security deposit and you then:

- (a) pay all your bills on time for 12 months (if you are a residential customer) or 2 years (if you are a business customer); or
- (b) for all Supply Addresses under the Contract: vacate the Supply Address, request disconnection of the Supply Address or transfer to another retailer, where some or all of the security deposit is not required in settlement of the final bill,

we will return the security deposit and accrued interest in accordance with your reasonable instructions, or if no such instructions are given, as reasonably determined by us.

## **CONNECTION AND ENERGY SUPPLY**

### **26. Connection and supply of energy**

26.1 If your Supply Address is not connected at the commencement of the Contract we will arrange for the distributor to connect your Supply Address. You must pay us all charges and fees levied by the distributor in relation to that connection.

### **27. Responsibility of the distributor**

27.1 Your distributor is responsible for the connection of your Supply Address to the network, the maintenance of that connection, the physical supply of energy to your Supply Address and for the reliability and quality of the energy supplied.

27.2 The supply of energy is outside our control as your energy retailer. The supply of electricity may be subject to matters such as variations in voltage and frequency and may contain voltage surges. The supply of gas may be subject to matters such as variations in quality, pressure and continuity. These things may cause damage to your equipment.

27.3 Your energy distributor may disconnect, interrupt or reduce the supply of energy to your Supply Address.

27.4 We are unable to and do not guarantee the quality and continuity of the supply of energy. We are not liable to you on any basis in connection with any of the matters mentioned in this clause 27 (unless the Regulatory Instruments apply to you, then, our liability is only limited to the extent permitted by the Regulatory Instruments).

27.5 You must notify us as soon as practicable if you enter into an agreement with the distributor for the connection and supply of energy to your Supply Address.

### **28. Uncontrollable events**

28.1 Any obligation under the Contract, other than an obligation to pay money, which cannot be satisfied because of an event outside of your or our control, as the case may be, will be suspended. If such an event occurs we will promptly notify you in accordance with the Regulatory Instruments and use reasonable endeavours to remove, overcome or minimise the effects of the event (although we need not settle any industrial dispute unfavourably to us). You must do the same if you are affected by such an event.

## **METERING**

### **29. Meters, Supply Points and equipment**

29.1 We may arrange for the replacement of the meter at your Supply Address with a new meter that complies with the Regulatory Instruments where:

- (a) you request a replacement meter or where you and we otherwise agree that your meter should be replaced;
- (b) we decide to undertake a New Meter Deployment and are entitled to do so by the Regulatory Instruments;
- (c) your existing meter is faulty or needs to be replaced under a maintenance replacement; or
- (d) otherwise required by the Regulatory Instruments.

29.2 We will charge you for, and you will pay us the cost of supplying and installing a new meter (unless the replacement was the result of a faulty meter and you were not responsible for causing the fault).

29.3 You acknowledge that:

- (a) by entering into this Contract with us, you are providing your consent to us undertaking a New Meter Deployment should we decide to do so under clause 29.1 (b); and
- (b) you are waiving any rights under the Regulatory Instruments to be notified, and choose to opt out, of any such New Meter Deployment.

29.4 You must facilitate the supply of energy to your Supply Address and in particular:

- (a) keep available enough land at your Supply Address for the meter, the Supply Point and related equipment;
- (b) protect and not interfere with or damage the meter, Supply Point or related equipment and tell us promptly if you notice any problems with them;
- (c) comply with our, or your distributor's, directions about the meter or Supply Point; and
- (d) pay for additional or replacement meters if yours is changed in accordance with this Contract or the Regulatory Instruments.

### **30. Access**

30.1 You:

- (a) must allow us, your distributor and our respective representatives safe, convenient and unhindered access to your Supply Address and any metering equipment there for the purposes of installing, maintaining, repairing, replacing, reading, testing, inspecting, altering, connecting, disconnecting or reconnecting your meter;
- (b) must, when requested, provide reasonable assistance to, and comply with all reasonable directions of, us, your distributor, and our respective representatives to enable performance of any activities specified in this clause 30; and
- (c) are aware of the fact that the energy supply to your Supply Address may be interrupted, or disconnected and reconnected as necessary while we, your distributor and our respective representatives perform any of the activities specified in this clause 30.

30.2 If our representatives attend your Supply Address they will have and present official identification on request.

30.3 If an attempt to access your Supply Address is unsuccessful, you must reschedule to a time at which you are able to make access available. You may be charged for this.

## **31. Your responsibilities**

31.1 We are not responsible for, and you accept all risks in respect of, the control and use of energy on your side of the Supply Point.

31.2 You must at all times:

- (a) ensure that the electrical and gas installation and appliances at your Supply Address are safe;
- (b) allow only accredited tradespersons to perform any work on the electrical and gas installation and appliances;
- (c) keep all vegetation, structures and vehicles at your Supply Address clear of the electrical installation;
- (d) notify us or your distributor of anything that may pose a risk to any person's health or safety or the integrity of the distributor's network; and
- (e) comply with our, or your distributor's, directions in an emergency.

## **DISCONNECTION AND RECONNECTION**

### **32. Disconnection generally**

32.1 You may request disconnection. Once you ask us, we will arrange disconnection of your Supply Address in accordance with your request. We will use our best endeavours to arrange for a meter reading and, if applicable, the preparation and issue of a final bill for your Supply Address.

32.2 Your distributor may also disconnect your Supply Address (see clause 27).

32.3 You must co-operate with and assist the distributor's and our representatives in respect of any disconnection.

32.4 Disconnection of one or more Supply Addresses does not of itself automatically end the Supply Term or the Contract.

### **33. Disconnection**

33.1 Provided that we comply with all of the requirements under the Regulatory Instruments if the Regulatory Instruments apply to you, we may arrange for your Supply Address to be disconnected:

- (a) if you fail to pay us an amount we have billed by the due date;
  - (b) if you refuse or fail to pay a security deposit;
  - (c) if you have failed to allow access, or safe and unhindered access, to your meter;
  - (d) if you are using energy illegally;
  - (e) if you are on a payment plan and have not adhered to the terms of the plan;
  - (f) if you refuse to provide acceptable identification when required by us; or
  - (g) on other grounds the Regulatory Instruments allow if the Regulatory Instruments apply to you,
- (each a Disconnection Event).

33.2 We will give you notice of our intention to arrange for disconnection of your Supply Address if the Regulatory Instruments:

- (a) apply to you, in accordance with the Regulatory Instruments; or
- (b) do not apply to you, we will give you 10 Business Days' notice, unless disconnection is due to an emergency, for health and safety reasons or for illegal use of energy.

33.3 Subject to clause 33.4, we will arrange for your Supply Address to be disconnected:

- (a) if the Regulatory Instruments apply to you, in accordance with the Regulatory Instruments;
- (b) if the Regulatory Instruments do not apply to you, in accordance with the notice given under clause 33.2.

33.4 Your Supply Address may be disconnected during the periods specified in clause 33.3:

- (a) due to an emergency, for health and safety reasons or for illegal use of energy; or
- (b) if you ask us to arrange for disconnection during one of the periods specified.

## **34. Reconnection**

34.1 If your Supply Address has been disconnected under clause 33 and the Supply Term with respect to that Supply Address has not ended, if within 10 Business Days of the date of disconnection you:

- (a) rectify the situation that led to disconnection; and
- (b) pay any relevant charges, including any connection or reconnection fees,

then, on request, we will arrange for your Supply Address to be reconnected in accordance with Regulatory Instruments, if the Regulatory Instruments apply to you and if not, as soon as practicable after.

## **35. Life support**

35.1 Despite anything else in this Contract, if the Regulatory Instruments apply to you, we will not arrange to disconnect a Supply Address where the Supply Address is registered by us or the relevant distributor as requiring life support equipment (as defined under the Regulatory Instrument).

## **END OF THE SUPPLY TERM**

## **36. Expiration of the Supply Term**

36.1 No earlier than 40 Business Days, and not later than 20 Business Days, before the Supply Term expires we will give you notice that the Supply Term is due to expire (Notice).

36.2 The Notice will contain the following information:

- (a) the date on which the Supply Term will end;
- (b) the terms and conditions (including the charges) that will apply after the Supply Term.

## **37. Offer of new Supply Term**

37.1 The Notice may include an offer to amend this Contract (Offer) by:

- (a) extending it to include a new Supply Term, to apply immediately following the Supply Term End Date; and
- (b) specifying the terms and conditions (including the charges) that will apply to the new Supply Term. This may include different charges, terms and conditions from those that applied during the previous Supply Term, including tariffs that are different in structure and nature.

37.2 If, within the period set out in the Notice, you notify us that you accept the Offer, this Contract will be amended to include the new Supply Term in accordance with the Offer.

37.3 If, within the period set out in the Notice, you do not notify us that you reject the Offer, you agree that you are taken to have accepted the Offer, and this Contract will be amended to include the new Supply Term in accordance with the Offer.



37.4 If, within the period set out in the Notice, you notify us that you reject the Offer, you acknowledge that:

- (a) the Supply Term will continue until the Supply Term End Date (unless otherwise terminated earlier); and
- (b) clause 9 will apply to any supply of energy between the Supply Term End Date and the Final End Date.

## **END OF THE CONTRACT**

### **38. Termination**

38.1 The Contract in respect of a Supply Address terminates on the earlier of:

- (a) if clause 4 (Credit Check) applies, the date specified in that clause;
- (b) if clause 5.2 applies, the date specified in that clause;
- (c) if clause 7.6 applies, the date specified in that clause;
- (d) if clause 6 (Cancellation during Cooling-off Period) applies, the date specified in that clause;
- (e) if clause 43 (Retailer of last resort) applies, the date specified in that clause;
- (f) if you end the Contract under clause 39 (Your right to end the Contract), the relevant date specified in that clause;
- (g) if a Supply Address is disconnected and you do not have a right to be reconnected, the date that is 10 Business Days from the date of disconnection;
- (h) if energy is provided to the Supply Address under a new contract or arrangement (with you or another person, including a deemed customer retail arrangement under the applicable Regulatory Instrument); the date the provision of energy to the Supply Address under that arrangement starts; and
- (i) the date agreed between you and us.

### **39. Your right to end the Contract**

39.1 Where you want to end the Contract in respect of a Supply Address because you want to:

- (a) transfer your Supply Address to another retailer, the Contract in respect of the Supply Address will end on the date when we cease to be Responsible for the Supply Address; or
- (b) leave your Supply Address, the Contract in respect of the Supply Address will end on the later of:
  - (i) the date of the final meter read at the Supply Address (whether or not you were responsible for the person who consumed energy until that date); and
  - (ii) the date that you (or any person permitted by you) cease taking energy from us at the Supply Address (which, if the Supply Address is disconnected following the final meter read, will not be taken to be later than the date of disconnection); or
- (c) stay at your Supply Address but want the energy supply to be disconnected, the Contract in respect of the Supply Address will end on the date that is 10 Business Days from the date of disconnection; or
- (d) enter into a new contract with us, the Contract in respect of the Supply Address will end on a date agreed between us or in the absence of an agreed date, the date the new contract starts in respect of that Supply Address.

## **40. Exit fee**

40.1 If permitted by law, where the Contract has a Supply Term and the Contract terminates early (before the Supply Term is due to expire) in respect of a Supply Address, we may charge you, and if we do you must pay us an exit fee as specified in the Details.

40.2 If clause 40.1 applies and at the date of termination of the Supply Term you had received a discount, special offer, or any other benefit under clause 23, the Special Terms may provide for an additional exit fee (which may be calculated by reference to the monetary value of that benefit) to be charged by us and payable by you.

40.3 If the Contract does not have a Supply Term, we will not charge you an exit fee for ending this Contract.

## **41. Leaving a Supply Address**

41.1 This clause 41 applies if you decide to leave or do leave a Supply Address.

41.2 You must notify us of the date you intend to leave, or did leave, your Supply Address, and an address to which we can send a final bill for your Supply Address.

## **42. Final meter read**

42.1 If you want to transfer your Supply Address to another retailer, leave your Supply Address or arrange for your energy supply to be disconnected, a final meter read may need to be taken at the Supply Address. You may be charged a fee.

42.2 If you leave your Supply Address and do not comply with clause 30 for the purposes of obtaining a final meter reading (when required), where we provide you with an estimated final bill and later obtain a meter reading, more reliable data or updated data from the distributor or AEMO, we may adjust your final bill accordingly. You remain liable to pay any adjusted final bill, which may include any Charges incurred by any person at the Supply Address between the date of the estimated final bill and the date of the final meter read.

## **43. Retailer of last resort**

43.1 The Contract will end if a Last Resort Event occurs in relation to us and we are no longer entitled to sell energy. Within one Business Day of a Last Resort Event occurring we will provide your Personal Information, including your name, contact details and other information relating to your Supply Address, to the retailer who is to be the retailer of last resort. The Contract will automatically terminate when your Supply Address is transferred to that retailer. We will also immediately cancel any direct debit arrangement we have with you and notify you and your relevant financial institution of the cancellation. No exit fees apply where a Last Resort Event occurs.

43.2 The occurrence of a Last Resort Event does not release you from your liability to pay for energy we have sold you. We will not be liable to you for any change in rates or terms imposed by the retailer of last resort.

## **44. Accrued rights and obligations**

44.1 Termination of the Contract does not affect rights arising before or on termination, including any obligations you have to make payments to us.

## **OTHER MATTERS**

### **45. Variations to this Contract**

45.1 We may from time to time, by notice to you, vary this Contract:

- (a) to reflect any amendment to any Regulatory Instrument or the introduction of a new Regulatory Instrument;
- (b) where it is reasonably required due to changes to our business systems, processes or requirements; or
- (c) to protect our legitimate business interests.

45.2 If we vary this Contract pursuant to clause 45.1, the variations detailed in the notice will form part of the Contract on and from the date specified in the written notice.

45.3 You agree that:

- (a) we may vary the Contract in accordance with this clause 45; and
- (b) you will comply with the Contract as varied in accordance with this clause 45.

### **46. Privacy**

46.1 We will comply with all relevant privacy laws in relation to your Personal Information and (if applicable) your employees, officers or agents.

46.2 We will also comply with our Privacy Policy and Privacy Statement which is available at **[momentumenergy.com.au](https://momentumenergy.com.au)**, by calling Momentum on **1300 662 778** or writing to **PO Box 353, Flinders Lane, Melbourne VIC 8009**. This Policy explains how the Customer or the Customer's employees can complain about a breach of the Australian Privacy Principles and how Momentum will deal with such a complaint.

46.3 You give your explicit informed consent to manage, use and disclose your information in accordance with our Privacy Policy and Privacy Statement.

46.4 If you provide us with personal information about another person (such as an additional account holder), you must inform that person about the privacy provisions set out in this clause 46. Unless you have specifically told us otherwise, by accepting the Contract you consent to us collecting, using and disclosing your information as set out in this clause 46.

### **47. Complaints and dispute resolution**

47.1 You may contact us if you have a query, complaint or dispute by email to **[info@momentum.com.au](mailto:info@momentum.com.au)**, by post to **PO Box 353, Flinders Lane Melbourne VIC 8009**, by fax to **(03) 9620 1228** or by telephone on **1300 662 778**.

47.2 We will handle a complaint made by you in accordance with our standard complaints and dispute resolution procedures, which can be found on our website or provided to you on request. If the Regulatory Instruments apply to you, where information is provided on request it will be provided at no charge, although information requested more than once in any 12 month period may be provided subject to a reasonable charge.

47.3 We will inform you of the outcome of a complaint made by you. If you are not satisfied with our response to your complaint, you have a right to refer the complaint or dispute to the Energy Ombudsman.

### **48. Electronic transactions**

48.1 Where the Contract or any applicable Regulatory Instrument requires us to provide you with a notice (including, but not limited to, notices regarding changes to billing and payment arrangements, tariffs, disconnection, reminders or warning notices, variations to the terms and conditions of the Contract and those relating to termination of the Contract), we may provide you with any such notice electronically.

48.2 Where the Contract or any applicable Regulatory Instrument requires you to provide us with a notice (including, but not limited to, notices regarding changes to your details, change in energy use and termination of the Contract), you may provide us with any such notice electronically.

48.3 Where the Contract or any applicable Regulatory Instrument requires us to obtain your consent, you may provide us with your consent electronically.

48.4 Any notices or bills provided to you electronically, (with your consent) are valid for the purpose of the Contract (whether through email, fax, SMS, your Momentum Energy online account or such other electronic means).

48.5 You will be bound by any electronic transactions you enter into with us.

## **49. Provision of information – your obligations**

49.1 You must notify:

- (a) us as soon as possible if any of your details which are known to us change;
- (b) your distributor as soon as possible if your Supply Address is affected by a fault;
- (c) us as soon as possible if any changes occur which will materially affect the provision of metering services to you, such as changes to access to your meter.

49.2 If a person residing at the Supply Address requires a life support machine or otherwise has a medical condition that requires continuous supply of electricity or gas then you must notify us of that fact. We will register that person as a person requiring a life support machine at that Supply Address from the date advised by you, and notify the distributor of same. You must provide confirmation of your advice from a registered medical practitioner. If you fail to provide medical confirmation, we may deregister the Supply Address as a life support Supply Address.

## **50. Illegal Usage**

If we have undercharged or not charged you as a result of your fraud or illegal energy usage (otherwise than in accordance with applicable laws or Regulatory Instruments) then we may estimate the usage for which you have not paid and take debt recovery action for the entire unpaid amount.

## **51. General**

51.1 Subject to clause 51.2, neither you nor we may assign the Contract to another person without the other's prior written consent.

51.2 You consent to us assigning:

- (a) the Contract to another person in connection with any transfer of all or part of our retail sales business which impacts the supply of electricity to your Supply Address; or
- (b) certain provisions of the Contract to another person in connection with the recovery of any monies owed by you to us under this Contract.

51.3 Subject to clause 51.4, neither you nor we may novate the Contract to another person without the other's prior written consent.

51.4 You consent to us novating the Contract:

- (a) to another person together with any transfer of all or substantially all of our retail energy sales business in the State or Territory in which your Supply Address is located; or
- (b) to a Related Body Corporate who is authorised to conduct a retail energy sales business in the State or Territory in which your Supply Address is located.

51.5 Unless otherwise stated, all notices under your Contract must be in writing. Notices can be given personally, by fax, by post or by email, to an address or number detailed in the Details. If a notice is sent by post, it will be considered to have been received 3 Business Days after posting, unless in fact it is received earlier. You must notify us of any changes to your details.

51.6 The Contract is governed by the laws in force in the State or Territory in which your Supply Address is located (if there is more than one Supply Address, this Contract is governed by the laws in force in Victoria) and you agree to submit to the non-exclusive jurisdiction of the courts of that State or Territory.

51.7 The Contract overrides all prior negotiations, representations, proposals, understandings and agreements whether in writing or not, relating to the sale of energy by us to the Supply Address.

51.8 You acknowledge that you have not relied on any predictions, forecasts, advice or statements of opinion by us or any of our employees, contractors or agents relating to the sale of energy by us to your Supply Address.

51.9 Nothing in these Market Terms and Conditions excludes, restricts or modifies any consumer guarantee, right, remedy, condition or warranty conferred on you by the Australian Consumer Law (whether applied as a law of the Commonwealth or any State or Territory), where to do so would contravene the Australian Consumer Law or cause any part of this clause to be void, or any other applicable law that cannot be excluded, restricted or modified by agreement. However, all other conditions and warranties, whether or not implied by the law, are excluded.

51.10 To the fullest extent permitted by law, our liability for a breach of a non-excludable guarantee referred to in clause 51.9, for a breach of any other legal duty in relation to the subject matter of this Contract (if the Regulatory Instruments apply to you except for breach of the contract or negligence by us), is limited, as far as the law allows and at our option, to replacing or resupplying the goods or services respectively or paying for their replacement or resupply.

51.11 If for any reason the limitation of liability under clause 51.10 is not effective or enforceable, then our maximum aggregate liability for all proven losses, damages and claims arising out of this Contract (except for breach of the contract or negligence by us if the Regulatory Instruments apply to you) is limited to the sum of the amounts paid by you to us in respect of Charges under this Contract, at the time the liability becomes fixed.

51.12 You indemnify us against (and therefore must pay us for) loss or damage arising in connection with any failure by you to comply with any of your obligations under the Contract if the Regulatory Instruments:

- (a) apply to you, then, up to the amount that we may be entitled to recover as compensation under common law or statute and you will not have to do this where the loss or damage is the result of the negligence of us, your distributor or a meter reader;
- (b) do not apply to you, then, you will not have to do this where the loss or damage is the result of the negligence of us.

51.13 Nothing in the Contract varies or excludes any limitation of liability or immunity we have under the Regulatory Instruments.

51.14 Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this Contract by us does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Contract. No waiver of a breach of a term of this Contract operates as a waiver of any other breach of that term or of a breach of any other term of this Contract.

## **EXPLANATION OF TERMS**

### **52. Definitions and interpretation**

52.1 In the Contract:

**Annexure** means Annexure to these Market Terms and Conditions;

**Billing Period** means the period covered by any bill;

**Business Day** means a day other than a Saturday, Sunday or a gazetted public holiday at the Supply Address;

**Charges** means all rates and charges payable under the Contract;

**Contract** means the retail contract for the sale of energy we and you have entered into;

**Controlled Load** means where your meter is configured to record separately metered usage on a dedicated circuit, normally connected to a specific appliance such as electric hot water service and is controlled by your distributor via time switch or other means of activation;

**Controlled Load Period** means the timeframe during which Controlled Load Rates apply, as defined in accordance with our agreement with your distributor;

**Controlled Load Rate** means any rate (in cents per kilowatt hour) for an applicable period and Supply Address specified in the Details by reference to the words "Controlled Load", as that rate may be varied under this Contract;

**Cooling-off Period** means the period of 10 Business Days from the later of:

- (a) the date of commencement of the Contract; and
- (b) if the Regulatory Instruments apply to you, the date when you received the Disclosure Information about the Contract;

**Daily Supply Charge:**

- (a) means the charge named "Daily Supply Charge" or "Service Charge" in the Details and calculated for each Supply Address;
- (b) is calculated on a daily basis;

and that charge may be varied under this Contract;

**Details** means the document or documents named Energy Plan Details, being that part of the Contract in which your details and further details of the Contract are included and which incorporates the Disclosure Information, as signed by you or as completed by us on the basis of information we obtained from you. Where there is more than one Supply Address under this Contract, there may be more than one Details document;

**Disclosure Information** means the information about Charges, service levels, concessions or rebates, billing and payment, commencement date and duration of the Contract, extensions, termination, electronic transactions, cooling-off rights and complaint rights which the Regulatory Instruments require us to give you before formation of the Contract or as soon as practicable after its formation;

**Disconnection Event** is defined in clause 33.1;

**Energy Charges** are defined in clause 12.2(a);

**Energy Ombudsman** means in relation to Supply Addresses in:

- (a) the Australian Capital Territory, the Australian Capital Territory Civil and Administrative Tribunal;
- (b) South Australia, the Energy and Water Ombudsman (SA) Ltd;
- (c) Queensland, the Energy and Water Ombudsman Queensland

(d) New South Wales, the Energy & Water Ombudsman (NSW); or

(e) Victoria, the Energy and Water Ombudsman (Victoria) Limited.

**Environmental Requirement** means any law that has as one of its purposes the reduction or limitation of greenhouse gases, the encouragement of renewable, low emissions or other forms of clean energy, or the minimisation of the impact of the energy industry on the environment, introduced by any government or authority before or after the commencement of the Contract;

**Energy Retail Code** means the code of that name published by the Essential Services Commission in Victoria from time to time;

**Feed-in Credit** has the meaning given to this term in the Momentum Energy Feed-in Tariff Terms and Conditions;

**Final End Date** means, in respect of a Supply Address, the date on which the first to occur of any the events detailed in clause 38.1 occurs at that Supply Address;

**GST** means a goods and services or similar tax;

**Large Customer** is a person who is not a Small Customer;

**Large Customer Contract** means any contract (as nominated by us) that we apply to Large Customers;

**Last Resort Event** has the same meaning as given to the term “RoLR Event” under the National Energy Retail Law;

**Momentum Energy Feed-in Tariff Terms and Conditions** means the contract of that name which may be entered into between you and us under which we credit amounts to your electricity bills for electricity you generate from an eligible generator and feed back in to the distribution network;

**National Energy Retail Law** means the National Energy Retail Law in the form applied in the State or Territory in which your Supply Address is located, as varied or replaced from time to time;

**National Energy Retail Rules** means the National Energy Retail Rules made under the National Energy Retail Law, in the form applied in the State or Territory in which your Supply Address is located, as varied or replaced from time to time;

**New Meter Deployment** has the same meaning given to that term under the National Energy Retail Law;

**Off Peak Periods** means off peak periods as outlined in the Details or otherwise determined by us having regard to the periods determined by your network;

**Off Peak Rate** means any rate (in cents per kilowatt hour or cents per megajoule, as applicable) for an applicable period and Supply Address specified in the Details by reference to the words “Off Peak” including any rates expressed as (for example) “Off Peak 2” or “Off-Peak - step 2”, as that rate may be varied under this Contract;

**Pass-Through Costs** means all direct and indirect costs that are incurred by us or by a corporation or other entity related to us, or that are passed through to us or that entity, in relation to the sale of energy at or the supply of energy to your Supply Address, other than the wholesale energy component cost of the energy sold to you, including transmission and distribution network charges, regulated charges, costs in respect of Environmental Requirements, transmission and distribution losses, service charges and metering charges;

**Peak Periods** means peak periods as outlined in the Details or otherwise determined by us having regard to the periods determined by your network;

**Peak Rate** means any rate (in cents per kilowatt hour or cents per megajoule, as applicable) for an applicable period and Supply Address

specified in the Details by reference to the word “Peak”, including any rates expressed as (for example) “Peak 2” or “Peak - step 2”, as that rate may be varied under this Contract;

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

**Privacy Statement** means our statement of practice relating to the privacy and security of your Personal Information, a copy of which is attached and is also otherwise available from our website [momentumenergy.com.au](http://momentumenergy.com.au).

**Prompt Payment Discount** means the discount, expressed as a percentage and named “PPD%” in the Details, and may be varied under your Contract;

**Regulatory Instrument** means any law or regulatory or administrative instrument relating to or affecting the sale or supply of energy in the State or Territory in which your Supply Address is located or otherwise relevant to our obligations under this Contract, including the Energy Retail Code, National Energy Retail Law and the National Energy Retail Rules, as varied or replaced from time to time;

**Responsible** in respect of the Supply Address means financially responsible in the wholesale energy market for energy supplied to the Supply Points at the Supply Address;

**Shoulder Periods** means shoulder periods as outlined in the Details or otherwise determined by us having regard to the periods determined by your network;

**Shoulder Rate** means any rate (in cents per kilowatt hour or cents per megajoule, as applicable) for an applicable period and Supply Address specified in the Details by reference to the word “Shoulder”, as that rate may be varied under this Contract;

**Small Customer** means a person who is:

- (a) a residential customer (a person who purchases energy principally for personal, household or domestic use at their premises); or
- (b) a business customer:
  - (i) in respect of gas, consuming less than 1 terajoule per annum or a customer who is classified by the distributor as a “Tariff V” customer; and
  - (ii) in respect of electricity means a customer who consumes energy at or below a level determined under the:
    - (A) National Energy Retail Law; or
    - (B) Victoria: the Electricity Industry Act 2000 (Vic);

(as applicable) at a Supply Address under this Contract;

**Special Terms** means any special terms we have agreed which are included in a schedule to the Contract, including:

- (a) if the Details specify that you have chosen our SmilePower product or our SmilePower Flexi product, the special terms set out in Schedule A; and
- (b) any additional terms and conditions applicable to a plan or product you have chosen;

**Standard Retail Contract** means:

- (a) in respect of a Supply Address located in the Australian Capital Territory, South Australia, Queensland or New South Wales: a customer retail contract that takes effect under section 26 of the National Energy Retail Law; and
- (b) in respect of a Supply Address located in Victoria: a customer retail contract that arises from the acceptance of a licensee standing offer (as defined under the Electricity Industry Act 2000 (Vic) or the Gas



Industry Act 2001 (Vic), as applicable);

**Standing Offer Prices** means all of the tariffs and charges we charge a small customer for or in connection with the sale and supply of energy to that customer under a Standard Retail Contract;

**Step Limit** means, in respect of a Supply Address, the figure specified as such in the Details expressed in kWh or Megajoule;

**Supply Address** means the address where you accept the supply of energy under the Contract, as detailed in the Details;

**Supply Point** means any point at which your distributor's network connects to the energy installation at your Supply Address and includes the relevant meter;

**Supply Start Date** is defined in clause 7.1(a);

**Supply Term** is defined in clause 7.2;

**Supply Term End Date** is defined in clause 7.1(b);

**Tax** means any taxes, levies, imposts, deductions, charges, withholdings or duties other than income tax, fines or penalties;

**Unsolicited Consumer Agreement** has the meaning given to this term in the Australian Consumer Law as set out in Schedule 2 to the Competition and Consumer Act 2010 (Cth); and

**Usage Charges** means the charges calculated under clause 13;

**Usage Period** means (as applicable) Peak Period, Shoulder Period, Off Peak Period, Controlled Load Period, or all hours of the day;

**Usage Quantity**, in relation to a Supply Address and Usage Period, means the actual metered Usage, substituted Usage or estimated Usage of energy (as applicable, in accordance with clause 18) at that Supply Address and in that Usage Period (whether consumed by you or another person), in kilowatt hours (for electricity) or megajoules (for gas);

52.2 In the Contract:

- (a) a reference to:
  - (i) the singular includes the plural and vice versa;
  - (ii) a document includes any variation or replacement of it;
  - (iii) costs we incur includes our internal costs;
- (b) the words "including", "includes", "such as" or "for example" are not words of limitation; and
- (c) headings are for convenience only and do not affect interpretation.

## **ANNEXURE TO MARKET RETAIL TERMS FOR SMALL CUSTOMERS**

If the relevant Regulatory Instrument applies to you, then, this Annexure forms part of your Market Retail Terms for Small Customers (Market Terms and Conditions). To the extent of any inconsistency between this Annexure and the remainder of the Market Terms and Conditions, the provisions in this Annexure prevail.

## **DEROGATIONS AND SPECIFIC PROVISIONS**

### **1. Australian Capital Territory**

1.1 This clause applies to Supply Addresses located in the Australian Capital Territory.

1.2 We will not charge you a rate of interest under clause 21.5(a) that:

- (a) is not published as part of our Standing Offer Prices; and
- (b) is higher than the default rate (being the rate of interest that applies to an unpaid judgement debt in the Supreme Court of ACT).

1.3 Despite clause 21.5(a), we can only charge you interest if you have not paid us an amount you owe to us by the end of the 14th day after the due date stated on your bill.

1.4 We will not charge you interest on an amount we have undercharged you (unless the amount was undercharged as a result of your fault or unlawful act or omission).

1.5 For the purposes of clause 47, upon receiving a complaint from you, we must, at a minimum:

- (a) acknowledge your complaint immediately, or as soon as practicable; and
- (b) respond to it within 20 Business Days.

1.6 If we fail to meet the minimum standards in clause 1.5 of this Annexure and within three months of the incident of non-compliance you make an application to us for a rebate, we must pay you a rebate of \$20.

1.7 If you notify us in accordance with clause 31.2(d):

- (a) we must respond within 48 hours and arrange to resolve the problem within the time specified in the response; and
- (b) if the notification relates to damage or a fault or problem likely to affect public health or cause substantial damage or harm to a person or to property, we must respond as soon as possible, and in any event within six hours.

## **2. South Australia**

2.1 This clause applies to Supply Addresses located in South Australia.

2.2 In relation to any fee we impose for late payment of a bill under clause 21.5:

- (a) the fee must not exceed our reasonable costs in recovering the overdue amount; and
- (b) if you have lodged a complaint in relation to the bill under clause 47, we will not take any steps to recover any fee under clause 21.5 while the complaint is being dealt with.

2.3 We will not charge you an exit fee under clause 40.

## **3. New South Wales**

3.1 This clause applies to Supply Addresses located in New South Wales.

3.2 Despite clause 21.5(a), we will waive any fee payable by you for late payment of a bill in the following circumstances:

- (a) if the Contract is a contract for electricity or a dual fuel contract and you receive the Low Income Household Rebate or the Medical Energy Rebate;
- (b) if that bill, or another bill given to you, is the subject of a matter being considered by the Energy Ombudsman;
- (c) if the bill is subject to an arrangement to pay by instalments under a payment plan;
- (d) if any part of the bill is paid by a voucher issued under the Energy Accounts Payment Assistance Scheme;
- (e) if we are aware that you have sought assistance to pay the bill from a participating community welfare organisation that issues vouchers under the Energy Accounts Payment Assistance Scheme.

3.3 We will not charge you an exit fee under clause 40.

3.4 For the purposes of clause 3.3 of this Annexure, our procurement costs are our costs of procuring your entry into this Contract, calculated on a pro rata basis (according to the period for which the Contract was in force).

3.5 We must waive any exit fee we charge you under clause 40 if you:

- (a) are a hardship customer; or
- (b) at the time of the last bill given to you before the Contract was terminated, received the Low Income Household Rebate or the Medical Energy Rebate; or
- (c) paid any part of the last bill given to you before termination of the Contract by a voucher issued by a participating community welfare organisation under the Energy Accounts Payment Assistance Scheme.

## 4. Queensland

4.1 We will not charge you an exit fee under clause 40.

## 5. Victoria

5.1 This clause applies to Supply Addresses located in Victoria.

5.2 In this clause:

- (a) **Electricity Act** means the Electricity Industry Act 2000 (Vic);
- (b) **Essential Services Commission** means the body of that name established under the Essential Services Commission Act 2001 (Vic);
- (c) **Gas Act** means the Gas Industry Act 2001 (Vic); and
- (d) **Smart Meter** has the meaning given in the Energy Retail Code.

5.3 A reference in the Market Terms and Conditions to:

- (a) the National Energy Retail Rules will be read as a reference to the Energy Retail Code; and
- (b) the National Energy Retail Law will be read as a reference to the Electricity Act or the Gas Act, as applicable.

5.4 The Charges may also include any additional retail charge as contemplated by the Energy Retail Code.

5.5 Your bill will include:

- (a) if you are a Smart Meter customer, various other information specific to Smart Meters required by the Regulatory Instruments; and
- (b) information concerning greenhouse gas emissions or bill benchmarking information required by the Regulatory Instruments.

5.6 If you are a Smart Meter customer, we may provide you with a bill based on:

- (a) estimated or substituted metering data, or if this data is not available;
- (b) your historical billing or metering data, or if this data is not available;
- (c) the average use of energy by a comparable customer over the corresponding period covered by the estimated bill,

where we are not able to reasonably or reliably base a bill on actual metering data collected from your Smart Meter for each trading interval.

5.7 If you are a Smart Meter customer, we will provide interval data electronically, or by some other form, in a way which makes the information understandable or accessible to you.

5.8 Other than Disconnection requested to occur at a scheduled time, if you request disconnection of your Supply Address and it can be remotely disconnected safely, we will arrange disconnection of your Supply Address within 2 hours of your request.

5.9 If we disconnect your Supply Address without having complied with clause 33, we will be required to compensate you in accordance with the Regulatory Instruments.

5.10 We will not disconnect your Supply Address if:

- (a) you are a residential customer and have formally applied for a Utility Relief Grant and a decision is pending;
- (b) you have made a complaint directly related to the non-payment of a bill, under clause 47, to the Energy and Water Ombudsman of Victoria and the complaint is unresolved; or
- (c) if your Supply Address is registered as a medical exemption Supply Address or registered for life support;

5.11 If you make a request for reconnection, we must comply with the timeframes for reconnection as set out in the Energy Retail Code.

5.12 We will not charge you an exit fee under clause 40.

5.13 If we are your retailer for both electricity and gas under this Contract and:

- (a) Last Resort Events occur at the same time in relation to us for both electricity and gas, this Contract will automatically terminate for both electricity and gas in accordance with clause 43.1;
- (b) a Last Resort Event occurs in relation to us for either electricity or gas:
  - (i) this Contract will automatically terminate to the extent it applies to the fuel in relation to which the Last Resort Event occurred in accordance with clause 43.1; and
  - (ii) you may, within 14 days of the Last Resort Event occurring, terminate this Contract in relation to the other fuel by giving us 7 days' notice.

## **Schedule A –Special Terms for purchase of SmilePower and SmilePower Flexi.**

1. We will:

1.1 ensure that Hydro Tasmania or another electricity generator generates an equivalent amount of Renewable Energy in the National Electricity Market within the same calendar year that we bill you for your purchase of SmilePower;

1.2 engage an external auditor to examine the reconciliation of Renewable Energy generated against the quantity of SmilePower sold to our customers to verify that the correct amount of Renewable Energy has been generated to match your purchase; and

1.3 ensure that the Renewable Energy referred to in item 1.1 of this Schedule A is not used to produce renewable energy certificates (RECs), GreenPower or any other environmental product (and you acknowledge that the Renewable Energy may not be eligible to produce those certificates or products).

2. You acknowledge and agree that:

2.1 the electricity supplied to your Supply Address comes from the National Electricity Market and the National Electricity Market is comprised of energy generated from both renewable and non-renewable sources, which means that you will not necessarily receive Renewable Energy directly to your Supply Address;

2.2 the dispatch and flow of electricity in the National Electricity Market is affected by price differences and constraints between regions; we perform our calculations based on the power station data irrespective of transfers across interconnectors connecting the regions in the National Electricity Market;

2.3 as electricity flows through the transmission and distribution networks, energy is lost due to electrical resistance and the heating of conductors. These losses are equivalent to approximately 10% of the total electricity transported between power stations and market customers.

While we do not specifically account for these losses on an individual customer basis when ensuring that an equivalent amount of Renewable Energy is generated in the National Electricity Market when you purchase SmilePower, we allow for average losses of 10% between the Tasmanian Regional Reference Node and the customer;

2.4 while the energy generated from Hydro Tasmania's power stations is generated from a renewable source, SmilePower does not contribute to new renewable generation, as power stations generating SmilePower were built before 1997. Accordingly, SmilePower is not accredited by the National GreenPower Accreditation Program, which is a program that accredits renewable power stations built after 1997;

2.5 similarly, generation from those power stations that is below a baseline level (based on 1997 generation levels) is not eligible to produce RECs, but we may count this generation towards SmilePower;

2.6 the National Greenhouse Accounts (NGA) Factors set out state average emission intensity factors for determining the emissions associated with purchased electricity (known as Scope 2 emissions). This means that when you are calculating your Scope 2 emissions associated with your purchase of SmilePower for your own purposes, you must use the state average emissions intensity factor for the state in which you consume SmilePower;

2.7 no claims can be made by you in regard to reduction in greenhouse gas emissions as a result of energy purchased as SmilePower; and

2.8 we have made no representation to you that your purchase of SmilePower will reduce the quantity of greenhouse gas emissions attributable to you for the purposes of the National Greenhouse and Energy Reporting Act 2007 (Cth), or for any other purpose, and you have relied upon your own investigations, interpretations, deductions, information and determination in deciding whether SmilePower is suitable for your intended purpose.

3. We and you acknowledge that:

3.1 if clause 9 of the Market Retail Terms for Small Customers applies (Energy consumed after the Supply Term), the electricity will no longer be under our SmilePower product and accordingly this Schedule A does not apply to that electricity.

4. SmilePower Flexi

4.1 We and you acknowledge that items 1 to 4 of this Schedule A apply to your purchase of SmilePower Flexi as if references to SmilePower were references to SmilePower Flexi.

5. Definitions

5.1 The following definitions apply to these Special Terms:

- (a) **Contract** has the meaning given to that term in the Market Retail Terms for Small Customers;
- (b) **Hydro Tasmania** means the Hydro-Electric Corporation trading as Hydro Tasmania, which is the parent company of Momentum Energy Pty Ltd and a licensed energy generator located in Tasmania;
- (c) **License** has the meaning given to that term in item 4.2 of this Schedule A;
- (d) **Renewable Energy** means energy which is generated using renewable resources including but not limited to sunlight, wind and water which are consumed or expended throughout the generation process.

# **Privacy Statement**

This Privacy Statement describes how Momentum Energy Pty Ltd (“us”, “we”, “our”) use, collect and disclose personal information (including credit information) about you, how you can access and request correction of personal information we hold about you and how you can make a complaint if you have a concern about how we dealt with your personal information.

## **Your information**

When we refer to “Your Information”, we are referring to your personal information, as defined under the Privacy Act 1988 (Cth).

## **How we collect your personal information**

We collect personal information about you directly from you, unless it is unreasonable or impractical to do so. We may collect your personal information by telephone, in person, in writing, online (including through the use of cookies on our websites), electronically by email and by the use of surveillance camera systems located at our sites. We may also collect your personal information from publicly available sources or from third parties, for example from marketing companies or brokers who may have introduced you to us. We will collect your personal information on an ad hoc or a recurrent basis using the above methods.

## **Why we collect your personal information**

We collect your personal information so that we can conduct our business activities and provide energy and related products and services to you, including so that we can:

- Identify you and conduct appropriate checks;
- Understand your requirements and provide you with energy and related products and services;
- Set up, administer and manage our operations and the provision of our products and services;
- Assess your creditworthiness and capacity;
- Provide state government concessions and hardship assistance;
- Promote and market our products and services;
- Manage, train and develop our employees and representatives;
- Manage complaints and disputes (including in connection with disputes handled by external dispute resolution bodies); or
- Understand your needs, your behaviours and how you interact with us so that we can engage in research and development in connection with our products and services and business strategy, including managing the delivery of our products and services and the ways we communicate with you.

If we are unable to collect personal information about you, we may not be able to deal with you, or provide you with energy and related products and services.

We may be authorised or required to collect your personal information under Australian legislation including the relevant energy and consumer codes.

## **Who we disclose your personal information to**

We disclose your personal information to and collect your personal information from third parties to enable us to conduct our business. These third parties include:

- regulatory or government authorities;
- your authorised representatives;

- representatives, agents or contractors we appoint or engage to provide products and services in connection with the operation of our business and the provision by us of energy services, for example information technology services, hosting services, telephony services, mailing house services, printing services, call centre services, debt collection services, marketing and communications services, research, planning and development services, external dispute resolution services, energy distributors and other energy retailers;
- financial institutions;
- our business partners;
- our professional advisers;
- credit reporting bodies;
- other credit providers (including for references and collections activities); or
- any other organisation or person you ask us to provide your personal information to (or collect your personal information from).

We may also disclose your personal information to Hydro-Electric Corporation ABN 48 072 377 158 (trading as Hydro Tasmania), which is a related company of ours.

## **Disclosures to Credit Reporting Bodies**

Where the Privacy Act permits us to, we may disclose your personal information to credit reporting bodies. For example, to obtain a credit report about you to assess your application for an energy account with us, or to assist us to collect overdue payments.

If you fail to meet your payment obligations under credit provided by us, or commit a serious credit infringement, we may be entitled to disclose this to a credit reporting body.

Credit reporting bodies may include personal information provided by us in reports provided to other credit providers to assist them to assess your creditworthiness. If you fail to meet your payment obligations in relation to consumer credit provided by us or other credit providers, or if you commit a serious credit infringement in connection with consumer credit, we (or the other credit providers) may be entitled to disclose that information to credit reporting bodies.

We currently disclose personal information to and collect personal information from the credit reporting bodies Equifax and Illion. Copies of Equifax and Illion's Credit Reporting Policies can be obtained by contacting:

- Equifax - Public Access: Equifax Australia Information Services and Solutions Pty Limited, GPO Box 964, North Sydney, NSW 2059, [www.mycreditfile.com.au](http://www.mycreditfile.com.au), 138 332. Equifax's credit reporting policy is set out at [www.equifax.com.au/privacy](http://www.equifax.com.au/privacy)
- Illion Public Access Centre: Illion, PO Box 7405, St Kilda Rd, VIC 3004, [pac.austral@illion.com.au](mailto:pac.austral@illion.com.au), [www.creditsimple.com.au](http://www.creditsimple.com.au), 1300 734 806. Illion's credit reporting policy is set out at [www.illion.com.au/illion-credit-reporting-policy-australia](http://www.illion.com.au/illion-credit-reporting-policy-australia)

## **Disclosure overseas**

Some of your personal information may be disclosed, processed or stored overseas by us or by our third party service providers. Where your personal information is disclosed, processed or stored overseas, we take reasonable steps to ensure that overseas recipients comply with Australian privacy laws applicable to the handling of your personal information. Further information can be found in our Privacy Policy.



## **Marketing**

We may use and disclose your personal information to market a particular product or service to you which may be of interest to you. From time to time we may contact you to inform you of any new or existing products or services. We may contact you by any electronic means including email, text or multimedia message, phone or our online account management system, or in person or by post to let you know about specials, our promotions or any new or existing products or services. We also use internet-based marketing including targeted online advertising and online behavioural marketing.

We may disclose personal information to our business partners to allow them (or us) to tell potential customers about a product or service. Our marketing agencies may contact potential customers using personal information that they already hold, or that we may provide to them, in order to serve our potential customers with more relevant advertising about our products and services.

You can contact us at any time if you do not want to receive marketing information from us, by calling us on 1300 662 778.

### **Opting out of direct marketing pre-screening**

A credit reporting body may use your credit information to assist a credit provider to market to you, by pre-screening you for direct marketing by the credit provider. This process is known as a “pre-screening”. If you do not want a credit reporting body to use your information for the purpose of pre-screening, you have the right under the Privacy Act to contact them and request that they exclude you from pre-screening (at no cost to you).

### **If you are a victim of fraud (including identity fraud)**

You are entitled under the Privacy Act to request that a credit reporting body not use or disclose credit information they hold about you in circumstances where you reasonably believe that you have been, or are likely to be, a victim of fraud, including identity fraud. The period while this applies is called a “ban period”. The credit reporting body will explain to you in more detail the effect and duration of a ban period when you contact them.

### **Access, corrections and complaints**

You have the right to request access to and correction of, personal and credit reporting information we hold about you. Information about how you can do this is set out in our Privacy Policy. Our Privacy Policy also contains information about how you can make a complaint if you are concerned that we have not complied with Australian privacy laws in relation to your personal information, and how we will deal with a complaint. Our Privacy Policy is available at [momentumenergy.com.au](http://momentumenergy.com.au), or you can call us on 1300 662 778 for further information.

### **Telephone call recording**

We may record incoming and outgoing telephone calls for training or verification purposes. Where we have recorded a telephone call, we can provide you with a copy at your request, where it is reasonable to do so.



**We're here to help.**

**t** 1300 662 778   **f** 03 9620 1228

**e** [info@momentum.com.au](mailto:info@momentum.com.au)

**w** [momentumenergy.com.au](http://momentumenergy.com.au)

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