



Electricity Sale Agreement.

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Important Note.

The process of transferring electricity through the Distribution System to the Customer's Premises is called "Delivery of Electricity" in this Agreement. The Customer's Distributor operates and controls the Distribution System and undertakes this process. As the retailer, AGL can arrange with the Distributor for Delivery of Electricity to the Customer's Premises.

AGL cannot however, as a retailer, physically control the quality or frequency of the electricity delivered to the Customer's Premises or the continuity of Delivery of Electricity to the Customer's Premises.

THIS AGREEMENT is between the CUSTOMER set out in Item 1 of Schedule 1 and AGL (as 'AGL' is defined in clause 15).

1. This agreement.

- (a) This Agreement consists of these terms and conditions and the Schedules and sets out the agreement between AGL and the Customer for the sale of electricity to the Premises.
- (b) If any of the Premises are located in the Australian Capital Territory, AGL and the Customer agree that the terms and conditions for the sale and/or supply of electricity to the Customer at those Premises are the terms and conditions set out in this Agreement and not the terms and conditions specified in Part 2 of the Consumer Protection Code (being an industry code under Part 4 of the *Utilities Act 2000* (ACT)).

2. Sale, purchase and delivery of electricity.**2.1. Sale and purchase obligations – general.**

- (a) AGL will sell to the Customer, and the Customer will purchase from AGL, all electricity that the Customer requires for the Premises from the Commencement Date in accordance with the terms of this Agreement. The Customer must not purchase electricity for the Premises from a third party during the Pricing Term without the prior written consent of AGL, which must not be unreasonably withheld.
- (b) Each party must comply with all applicable Energy Laws in the performance of this Agreement.

2.2. Premises transfer.

- (a) The Customer consents to AGL completing the transfer of the Premises to AGL, if AGL is not already the Customer's Retailer in respect of the Premises. The Customer acknowledges that any such transfer to AGL may involve changes to the Metering Equipment and/or the Metering Installation, the disclosure of information relating to the supply of electricity for the Premises, and consents to AGL being provided with any consumption history or data as required.
- (b) The parties will use reasonable endeavours to ensure AGL becomes the financially responsible Retailer for the Premises under Energy Law but the Customer acknowledges that other parties are involved in this process and agrees that AGL has no liability to the Customer for any delays outside AGL's control.

2.3. Electricity Consumption and Consumption Forecast.

- (a) If the Customer's consumption or expected consumption of electricity at the Premises during any 12 month period does not exceed the upper consumption threshold for small business customers as regulated by Energy Law AGL may upon Notice to the Customer remove that Premises from this Agreement (in which case, that Premises will be deemed to have been removed from Item 1 of Schedule 2) from the date set out in the Notice, or if no Premises would remain under this Agreement upon such removal, terminate the Agreement.
- (b) Where the Customer's Estimated Total Annual Consumption is less than 50,000 MWh, at any time prior to the Pricing Termination Date:
 - i. upon AGL's request, the Customer must promptly provide to AGL an annual electricity consumption forecast for each Premises; and

- ii. the Customer must give AGL at least 30 days' Notice if the Customer becomes aware that the aggregate annual electricity consumption at all Premises will be or is likely to be greater than or equal to 50,000 MWh.
- (c) Where the Customer's Estimated Total Annual Consumption is greater than or equal to 50,000 MWh, the Customer must give AGL at least 30 days' Notice if it becomes aware at any time prior to the Pricing Termination Date that the aggregate annual electricity consumption at all Premises is to vary or is likely to vary from the Estimated Total Annual Consumption by more than 20%.
- (d) For the purposes of clauses 2.3(b) and (c), the Customer must provide such forecasts to AGL at ElectricityLoadForecasting@agl.com.au.
- (e) The Customer must not, except as required by law, enter into any arrangements for the curtailment of the rate of consumption of electricity at the Premises during the Pricing Term without AGL's prior written consent. Such consent may not be unreasonably withheld or delayed, but may be given subject to reasonable terms.
- (f) If the Customer's Estimated Total Annual Consumption is greater than or equal to 50,000 MWh, and there is or has been a material change to:
 - i. the volume of electricity consumption during the Pricing Term (including as a result of the removal of any Premises in accordance with clause 2.3(a) and whether notice is given by the Customer under clause 2.3(b) or not); or
 - ii. the pattern of electricity consumption during the Pricing Term (if Item 8 of Schedule 2 contains a further itemisation of the Estimated Total Annual Consumption by time of use or by Premises),

AGL may in its sole discretion recover any costs or reduction in benefit incurred or likely to be incurred by AGL, or a Related Body Corporate of AGL, in respect of its portfolio as a result of that change.

2.4. Arrangements for Delivery of Electricity.

AGL will arrange with the Distributor for the Delivery of Electricity to each Premises unless the Customer tells AGL that it already has a separate agreement with the Distributor for the Delivery of Electricity to that Premises.

2.5. Sale of Electricity after the Pricing Termination Date.

- (a) Subject to clause 2.5(b), after the Pricing Termination Date AGL will continue to sell to the Customer and the Customer will continue to purchase from AGL all electricity which the Customer requires for that Premises in accordance with the terms of this Agreement, except that:
 - i. the Energy Charge Rates and Emissions and Renewable Energy Charges will be determined in accordance with clause 3.7; and
 - ii. clause 8 will not apply and all clauses that are expressed to apply during the Pricing Term will cease to apply.
- (b) AGL will continue selling electricity to the Customer under this clause 2.5 until the earlier of the date:
 - i. any new agreement entered into between the Customer and AGL for the purchase of electricity in relation to that Premises commences;
 - ii. AGL is notified in accordance with the National Electricity Rules that the transfer of that Premises to another Retailer is complete;
 - iii. of disconnection of the Premises under clause 9.1(e) following termination of this Agreement:
 - A by AGL in accordance with clause 8, or by giving the Customer not less than 15 Business Days' Notice (if this day falls on a different day by State, the latest day will prevail) of termination; or

- B by the Customer by giving AGL not less than 40 Business Days' Notice (if this day falls on a different day by State, the latest day will prevail) of termination, and the termination takes effect at the end of a calendar month.

3. Charges.

3.1. Energy Charges.

The Customer agrees to pay AGL the Energy Charges for the electricity AGL sells to the Customer at each Premises, calculated as the actual metered consumption at each Premises (subject to clause 5.3) multiplied by the product of the Energy Charge Rates and the Approved Energy Loss Factor applicable to each Premises.

3.2. Basis of Energy Charge Rates.

The Energy Charge Rates are determined on the basis of the Customer's commitment to purchase from AGL all electricity which the Customer requires for each Premises during the period from the Commencement Date to the Expiry Date and the Estimated Total Annual Consumption.

3.3. Other Charges.

The Customer also agrees to pay to AGL all Network Charges, Market Charges, Metering Charges, Retail Service Fees, Services Charges, Emissions and Renewable Energy Charges and E&RE Charges applicable to each Premises for the electricity AGL sells to the Customer at each Premises.

3.4. Renewable energy product charges for Applicable Schemes.

- (a) Subject to reconciliation under clause 3.4(b), for the period(s) identified in the E&RE Charges Table which fall within the Pricing Term, and for each of the Premises, the Customer will pay to AGL emissions and renewable energy charges (expressed in \$/MWh) (**E&RE Charges**) in respect of AGL's, or a Related Body Corporate of AGL's, obligations and liabilities under the Emissions and Renewable Energy Schemes referred to in the E&RE Charges Table applicable in the State in which the Premises are located (**Applicable Schemes**), calculated as follows:

- i. for each Billing Period in respect of which the Final Scheme Percentage for an Applicable Scheme for that calendar year has not yet been determined (each an **Interim Period**):

$E\&RE\ Charges_{INT} = \text{the sum of (Approved Energy Loss Factor} * ACP * ISP * AC)$ for each such Applicable Scheme

- ii. for each Billing Period in respect of which the Final Scheme Percentage for an Applicable Scheme for that calendar year has been determined (each a **Final Period**):

$E\&RE\ Charges_{FIN} = \text{the sum of (Approved Energy Loss Factor} * ACP * FSP * AC)$ for each Applicable Scheme

where:

ACP means the agreed certificate price (\$/MWh) for the Applicable Scheme as set out in the E&RE Charges Table;

AC means the Customer's actual metered consumption of electricity (in MWh) at the Premises in the Billing Period;

ISP means the Interim Scheme Percentage for the Applicable Scheme; and

FSP means the Final Scheme Percentage for the Applicable Scheme.

- (b) Once the Final Scheme Percentage for a calendar year has been determined for all of the Applicable Schemes, AGL will invoice the Customer or credit the Customer (as applicable) for any differences between the billed E&RE Charges_{INT} and the E&RE Charges_{FIN} that would have been charged had Final Scheme Percentages been applied in place of any Interim Scheme Percentages applied.

- (c) The parties acknowledge that:

- i. the amounts set out in this clause 3.4 only satisfy the Customer's liability for charges in respect of the Applicable Schemes and only for the period from the Commencement Date to the Pricing Termination Date for each of the Premises;
- ii. for any Emissions and Renewable Energy Schemes other than the Applicable Schemes, the Customer is required to pay charges in respect of those schemes as Emissions and Renewable Energy Charges under clause 3.3;
- iii. for any period after the Pricing Termination Date, the Customer will instead pay AGL charges in respect of Applicable Schemes as Emissions and Renewable Energy Charges in accordance with clause 3.7(b); and
- iv. for the avoidance of doubt, the E&RE Charges set out in this clause are subject to variation in accordance with clause 3.5.

3.5. Variation of Charges.

If an Increased Costs Event occurs after the date of this Agreement, AGL may:

- (a) charge the Customer such additional amounts as AGL may calculate on the basis of a reasonable estimate by AGL of the increase in direct or indirect costs, or the reduction in benefit, likely to be imposed on, or incurred by AGL or any of its Related Bodies Corporate in purchasing or selling or agreeing to sell the Customer electricity, as a result of the Increased Costs Event;
- (b) apportion increased costs or reductions in benefit among its customers using reasonable methods of averaging, attribution or any other method of calculation or approximation; and
- (c) charge such additional amounts by way of an increase to an existing charge under this Agreement, or a new charge.

3.6. Carbon Adjustment.

- (a) For each Billing Period (or part thereof) that occurs after one or more Carbon Schemes or Carbon Taxes have commenced operation, AGL may, in its sole discretion, elect to increase the Energy Charge Rates by an amount equal to the Carbon Adjustment.
- (b) If AGL by Notice to the Customer:
 - i. elects to apply a Carbon Adjustment under clause 3.6(a) it will not pursue recovery of the direct costs it incurs in acquiring Carbon Permits or paying carbon adjustments to third parties under clauses 3.3 or 3.5 (without prejudice to AGL's right to recover other costs associated with the Carbon Scheme or Carbon Tax under those clauses); and
 - ii. elects not to apply a Carbon Adjustment under clause 3.6(a) it may pursue recovery of any costs it incurs as a result of that Carbon Scheme or Carbon Tax under clauses 3.3 or 3.5.
- (c) If AGL has not notified the Customer of an election, then clause 3.6(a) will be deemed to apply.
- (d) AGL may change its election at any time by Notice to the Customer.

3.7. Energy Charge Rates and Emissions and Renewable Energy Charges following Pricing Termination Date.

If AGL continues to sell the Customer electricity at the Premises after the Pricing Termination Date, subject to clause 2.5:

- (a) the Energy Charge Rates for that electricity will be:
 - i. set out in a Notice to the Customer from time to time, for the period specified in that Notice (if any); or
 - ii. equal to the Default Rates, if the Customer does not receive a Notice under clause 3.7(a) or if the period for which the rates set out in a Notice under clause 3.7(a) are applicable ends, and

- (b) the determination of the Emissions and Renewable Energy Charges may change and they will be adjusted to include charges in respect of Applicable Schemes,

which the Customer acknowledges may be significantly higher than the charges applicable prior to the Pricing Termination Date.

3.8. GST.

- (a) Unless expressly stated otherwise, all amounts payable or the value of other consideration provided in respect of supplies made in relation to this Agreement are exclusive of GST (if any). If GST is levied or imposed on any supply made (or deemed to have been made) under or in accordance with this Agreement, the amounts payable or the value of the consideration provided for that supply (or deemed supply) ("**Payment**") shall be increased by such amount as is necessary to ensure that the amount of the Payment net of GST is the same as it would have been prior to the imposition of GST.
- (b) Where any amount is payable as a reimbursement, indemnification or similar payment calculated by reference to a loss, cost, expense or other amount incurred, then that amount must be reduced by any input tax credit available to that party and, if a taxable supply, must be increased by the GST payable in relation to the supply and a tax invoice will be provided by the party being reimbursed or indemnified.
- (c) All GST payable shall be payable at the time any payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it shall be payable within 10 days of a tax invoice being issued by the party making the supply.
- (d) Where in relation to this Agreement a party makes a taxable supply, that party shall provide a tax invoice in respect of that supply before the GST payable in respect of that supply becomes due.
- (e) Terms defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning when used in this clause 3.8.

4. Billing and payment.

4.1. Bills.

- (a) Subject to clause 5.3(b), the quantity of electricity sold and billed to the Customer under this Agreement will be determined from readings of the Metering Installation at the Premises.
- (b) AGL will send a bill to the Customer at the end of each Billing Period for the charges payable by the Customer under this Agreement. The bill may include:
- i. unbilled charges incurred in respect of a previous Billing Period; and
 - ii. adjustments in relation to any charges that were billed or should have been billed in respect of a previous Billing Period.
- (c) If, after a bill has been issued in respect of a given Billing Period, it is discovered that the Customer has been overcharged or undercharged under this Agreement, AGL must determine the correct charges and AGL will credit or debit the amount of overcharge or undercharge in the next bill as appropriate, or in an ad hoc bill if no further bill is due to be sent to the Customer under clause 4.1(b). AGL may send a bill under this paragraph (c) at any time notwithstanding that the Customer has ceased purchasing electricity from AGL at the Premises under the terms of this Agreement.
- (d) A bill is duly rendered if left at, mailed or emailed to or otherwise sent to the address set out in Item 4 of Schedule 2 (as amended by Notice from the Customer to AGL).

4.2. Payment and dispute of bills.

- (a) Subject to clause 4.2(d), the Customer must pay all bills in accordance with the Payment Terms (free of set-off and without deduction) by cash, cheque or electronic funds transfer. If AGL agrees to accept payment by credit card, AGL may charge the Customer for any additional

costs incurred, including any merchant services or payment processing fees levied by a service provider.

- (b) If a bill is not paid in full in accordance with the Payment Terms, AGL may charge interest at the Interest Rate on the unpaid amount, calculated from the date payment was due until the date payment is received by AGL (both dates inclusive) and compounded monthly.
- (c) AGL may also require the Customer to pay any costs reasonably incurred by AGL in recovering any amounts the Customer owes to AGL, including any amount in dispute that is subsequently required to be paid by the Customer, or due to the Customer's default under this Agreement.
- (d) Subject to clause 4.2(e), the Customer may withhold payment of any part of the bill that it reasonably believes is incorrect provided it gives Notice to AGL before the date payment is due detailing the reasons for this belief and requesting that AGL review the accuracy of the disputed portion of the bill. The Customer must pay AGL the undisputed portion of the bill by the date payment is due in accordance with the Payment Terms. AGL will review the disputed portion of the bill within 30 days of the Customer's written request to do so. If AGL's review does not resolve the dispute, either party may give the other a Notice of Dispute and clause 7 will apply.
- (e) Despite clause 4.2(d), the Customer must pay all Network Charges (and applicable GST) in full in accordance with the Payment Terms.
- (f) If the Customer validly withholds an amount in accordance with this clause and is subsequently found (by agreement or decision of a court or other party having jurisdiction) not to be liable to pay that amount, the Customer will not be liable for any interest on that amount.
- (g) AGL is entitled, without prejudice to any other rights or remedies it may have, to withhold and set off payments of any monies due or owing by the Customer to AGL, against any and all amounts due or owing by AGL to the Customer.

4.3. Credit Support.

- (a) The Customer must promptly provide to AGL such information reasonably requested by AGL from time to time to assist in the assessment of the Customer's creditworthiness.
- (b) AGL may by Notice request the Customer to provide AGL with Security to secure the due and punctual performance of the Customer's obligations under this Agreement if:
- i. AGL, acting reasonably, considers that the Customer's creditworthiness is unsatisfactory, or has materially adversely changed since the date of this Agreement; or
 - ii. the Customer fails to pay, in accordance with the Payment Terms, the outstanding amount of any 3 bills or any 2 consecutive bills.
- (c) The Customer must provide any Security requested within 7 days after AGL's Notice under clause 4.3(b).
- (d) AGL may use the Security to pay any amounts AGL reasonably believes the Customer owes to AGL under this Agreement.
- (e) Where AGL uses the Security to pay any amounts the Customer owes to AGL under this Agreement, AGL may require the Customer to reinstate the Security to the original amount requested pursuant to clause 4.3(b) within 7 days.
- (f) If the Customer fails to provide or reinstate Security in accordance with this clause 4.3, AGL may refuse to sell or supply electricity under this Agreement, cause the electricity supply at a Premises to be disconnected in accordance with clause 9.1(d), or terminate this Agreement in accordance with clause 8.1(b).
- (g) AGL must release any remaining Security on termination or expiry of this Agreement if all amounts owing or payable by the Customer to AGL under this Agreement have been paid in full.

5. Metering and access.

5.1. Responsibility for Metering.

- (a) AGL must, at the Customer's cost, take reasonable steps to arrange for the installation (unless already installed), testing and maintenance of the Metering Equipment and/or Metering Installation.
- (b) Subject to clause 5.2, AGL will appoint a Metering Provider in AGL's discretion and AGL reserves the right to change the Metering Provider in AGL's discretion.
- (c) If the Customer becomes aware that any part of their Metering Equipment and/or Metering Installation is defective, the Customer must notify AGL promptly of the defect. AGL will pass through to the Customer any costs it incurs from the Metering Provider or Distributor associated with rectifying any defective Metering Equipment and/or Metering Installation to the extent this has been caused by the Customer.
- (d) The Customer must not order or permit the Metering Provider or any other third party to effect any change or addition to the Metering Equipment and/or Metering Installation without the consent or direction of AGL.

5.2. Use of Customer Nominated Metering Provider.

- (a) Subject to clauses 5.1, 5.2(b) and 5.2(c), the Customer may request, and AGL may consent to, the use of a Metering Provider nominated by the Customer ("**Customer Nominated MP**").
- (b) If AGL requests it, the Customer must provide AGL with evidence, to AGL's reasonable satisfaction, that the Customer Nominated MP holds appropriate accreditation and regulatory approvals.
- (c) The Customer indemnifies AGL and must keep AGL indemnified against any cost, liability, loss, damage, claim or expense that AGL incurs or suffers as a direct or indirect result of the Customer Nominated MP providing or failing to provide metering, data and other associated services with respect to any Premises, including where incurred or suffered due to the Customer's or the Customer Nominated MP's negligence.
- (d) In the event that a Customer Nominated MP is appointed under this Agreement and a Responsible Person Fee is not set out in item 9 of Schedule 2, AGL may charge the Customer a Responsible Person Fee in respect of that appointment, as reasonably determined by AGL.

5.3. Data.

- (a) The data recorded by the Metering Equipment at each Premises and provided to AGL under Energy Law will be prima facie evidence of the amount of electricity which AGL has sold to the Customer and the basis for calculation of the Energy Charges for that Premises.
- (b) Where safe access to the Metering Equipment is denied, the Metering Equipment makes incorrect readings, or metering data is not available, for any reason, the quantity of electricity consumed at the Premises will (subject to any relevant Energy Law) be reasonably estimated by AGL based on available information and (if relevant) prior billing history.

5.4. Access.

- (a) The Customer must provide safe and unhindered access to the Metering Equipment for AGL's employees, agents and contractors, and all persons entitled to access under Energy Law.
- (b) The Customer must keep AGL informed of all safety hazards at each Premises that could pose a risk to the health or safety of any person.

6. Delivery of electricity, quality & quantity.

- (a) The Customer agrees that, as its Retailer under this Agreement:
 - i. AGL does not operate or physically control the Distribution System that provides Delivery of Electricity to the Customer's Premises;

- ii. AGL cannot control the quality or the frequency of the electricity delivered to the Customer's Premises, or the continuity of the Delivery of Electricity;
 - iii. AGL is not responsible for the acts or omissions of any third party (including where applicable the Distributor);
 - iv. AGL does not give any express or implied warranty to the Customer about the adequacy, safety or other characteristics of the Customer's own electrical installation or equipment; and
 - v. subject to clause 10.1, AGL does not make any representation to the Customer concerning the quality or the frequency of the electricity sold to the Customer, interruptions to the Delivery of Electricity, or the occurrence of any power surges or dips.
- (b) The Customer must take reasonable precautions to minimise the risk of loss or damage to any equipment, premises or business of the Customer which may result from poor quality or reliability of electricity supply. This includes an obligation to install and maintain any necessary and appropriate equipment to protect all electrical equipment at the Premises against power surges from lightning and other causes, partial reduction of electrical voltages resulting in a reduction of loads and any other material disruption to the quality of electricity.

7. Dispute resolution.

- (a) If a dispute arises in relation to this Agreement, a party seeking to escalate the dispute must give Notice to the other party detailing the full reasons for the dispute and requiring that the parties undertake dispute resolution pursuant to this clause 7 ("**Dispute Notice**").
- (b) Following the provision of a Dispute Notice, senior representatives of each party who have not previously been involved in the dispute and who have authority to settle it must commence their attempt to resolve the dispute in good faith within 14 days from the date of the Dispute Notice.
- (c) If the dispute is not resolved within 60 days from the date of the Dispute Notice, then either party may, by giving Notice to the other party, terminate this dispute resolution process and may commence litigation proceedings.
- (d) Each party must continue to perform its obligations under this Agreement despite the existence of a dispute.
- (e) Other than for the purposes of seeking injunctive or urgent declaratory relief, a party may not commence legal proceedings in respect of a dispute or any matter arising in connection with this Agreement otherwise than in accordance with this clause 7.

8. Termination.

8.1. Right to Terminate.

- (a) Either party may terminate this Agreement by Notice to the other party:
 - i. if an Insolvency Event occurs in respect of the other party;
 - ii. if the other party breaches any of its material obligations under this Agreement and the breach is not remedied within 14 days of receipt of a Notice to remedy that breach; or
 - iii. if the other party breaches any of its material obligations under this Agreement which cannot be remedied or reasonably compensated for.
- (b) AGL may also terminate this Agreement:
 - i. in the circumstances set out under clause 2.3(a); or
 - ii. on 3 days' notice if the Customer fails to provide Security in accordance with clause 4.3.

8.2. Consequences of Termination.

- (a) In order to commit to selling the Customer electricity at the Energy Charge Rates until the Expiry Date, AGL enters into Wholesale Energy Contracts to effectively reduce

AGL's exposure to the volatility of the wholesale price of the electricity AGL sells to the Customer.

- (b) If, prior to the Expiry Date:
- i. the Customer sells, ceases, moves or otherwise transfers the business conducted by the Customer at a Premises or sells or otherwise vacates a Premises and AGL ceases to be or at that time does not become the Retailer to that Premises on the terms of this Agreement for the balance of the period up to the Expiry Date; or
 - ii. this Agreement is terminated by AGL in accordance with clause 8.1,

then the Customer must compensate AGL for any loss, damage, cost, reduction in benefit, charge or expense suffered by AGL as a result of such termination (and the Customer's breach where relevant), including those arising from AGL's continuing obligations under any relevant Wholesale Energy Contract, without prejudice to any other action or claim AGL may have under this Agreement or at law.

- (c) AGL will use its reasonable endeavours to minimise any such loss, damage, cost, charge or expense referred to in clause 8.2(b).

8.3. Meter Reading on Termination.

The Metering Equipment for each Premises will be read following termination and a final bill issued in accordance with this Agreement for all outstanding charges.

9. Disconnection and reconnection.

9.1. Disconnection.

AGL may arrange for the disconnection of any Premises:

- (a) if the Customer breaches any of its material obligations or an obligation that may impact a third party under this Agreement and fails to remedy the breach within 14 days of receipt of a request from AGL to do so;
- (b) if an Insolvency Event has occurred in respect of the Customer;
- (c) if AGL reasonably believes that the Customer has stolen electricity or the Metering Equipment for a Premises has been interfered with, AGL notifies the Customer and the Customer does not pay for the stolen electricity, or satisfy AGL that the Metering Equipment has not been interfered with within the time set out in that Notice;
- (d) on 3 days' notice if the Customer fails to provide Security in accordance with clause 4.3; or
- (e) upon termination of this Agreement for any reason, provided that if the Agreement is terminated by AGL or the Customer under clause 2.5(b)iii, AGL must arrange for the disconnection of the Premises as soon as practicable following termination.

9.2. Reconnection.

If AGL arranges for the Distributor to disconnect a Premises under clause 9.1 and the Customer requests reconnection:

- (a) AGL may direct the Distributor to reconnect that Premises on such terms that AGL considers reasonable; and
- (b) prior to reconnection, AGL may require the Customer to pay the disconnection fee and/or reconnection fee set by the Distributor, and to provide any Security in accordance with clause 4.3.

9.3. Permitted Addition or Removal of Premises.

- (a) If during the Pricing Term the Customer wishes to add a site to this Agreement, or sell, cease, vacate, move or otherwise transfer the business operated by the Customer at a Premises, the Customer may request that this Agreement be varied to add one or more such sites as Premises and/or remove one or more such sites as Premises provided:
 - i. the request is given to AGL in writing at least 3 months before the proposed removal and/or addition;

- ii. the State or Territory of the sites to be added as Premises is listed as a State or Territory in Item 8 of Schedule 2;
- iii. AGL is satisfied, in its sole discretion, that:
 - A the addition or removal of any such Premises will not result in the total forecast annual consumption for all Premises in the relevant State or Territory that will exist or remain following any such addition and/or removal being greater than the Upper Consumption Level or less than the Lower Consumption Level in the relevant period; and
 - B the removal of a Premises is due to the Customer selling, ceasing, vacating, moving or otherwise transferring the operation of its business,

in which case AGL may agree to the request by Notice to the Customer and this Agreement will be varied to add or remove the Premises. For the avoidance of doubt, the requirements of clause 13.6(b) shall not apply in respect of such variation provided that the process set out in this clause 9.3 has been complied with by the parties.

- (b) Subject to clause 9.3(d), clause 8.2 shall not apply to any removal of Premises in accordance with this clause 9.3.
- (c) In the event the Customer requests AGL to add one or more additional sites as Premises which would result in the total forecast annual consumption for all Premises in the relevant State or Territory that will exist following any such addition being greater than the Upper Consumption Level and AGL in its sole discretion decides to action the request, AGL reserves the right to increase the charges applicable to such Premises in AGL's sole discretion.
- (d) In the event the Customer requests AGL to remove Premises which would result in the total forecast annual consumption for all Premises in the relevant State or Territory that will remain following any such removal being less than the Lower Consumption Level and AGL in its sole discretion decides to action the request, AGL reserves the right to recover any losses from the Customer that may be incurred in accordance with clause 8.2.

10. Liability.

10.1. Consumer Rights and Guarantees.

- (a) *The Competition and Consumer Act 2010* (Cth) and other laws provide that certain conditions, consumer guarantees and rights apply to contracts with consumers (as defined in that legislation) that cannot be excluded or limited.
- (b) So far as the law allows, AGL gives no condition, warranty or undertaking, and AGL makes no representation to the Customer concerning the condition or suitability of the electricity AGL sells to the Customer or any other good or service provided under this Agreement, or its quality, fitness or safety.
- (c) So far as the law allows, any liability AGL has to the Customer for breach of a condition, guarantee, right or representation applying to this Agreement that cannot be excluded but can be limited, will (at AGL's option) be limited to:
 - i. providing to the Customer equivalent goods or services to those goods or services to which that breach relates; or
 - ii. paying the Customer the cost of acquiring goods or services which are equivalent to the goods or services to which that breach relates.

10.2. Limitation of Liability.

- (a) So far as the law allows and subject to clause 10.2(b), the liability of a party (Party X) to the other party (Party Y) arising out of or in connection with this Agreement (other than any liability under clauses 3, 4 or 8.2) is limited to loss, damage, costs, charges and expenses directly sustained or incurred by Party Y as a result of:
 - i. personal injury to Party Y or its employees or agents; or

- ii. damage to the property of Party Y or its employees or agents,

caused by Party X's breach of this Agreement or negligent act or omission, up to a maximum of \$1 million per event.

- (b) So far as the law allows, neither party will be liable to the other in contract, in tort, in equity, by operation of statute or otherwise for any kind of Consequential Loss suffered or incurred by the other party, or any other person and arising out of or in connection with this Agreement (other than any liability under clauses 3, 4 or 8.2).

10.3.No Liability for Delivery of Electricity.

The Customer agrees that, subject to clause 10.1, AGL is not liable for any loss, damage, costs, charges, expenses or interest suffered by the Customer because of any variation or deficiency in the quality or frequency of electricity sold to the Customer (including without limitation any power surges or power dips) or any interruptions to the Delivery of Electricity howsoever caused.

10.4.Other Rights.

This clause 10 will apply in addition to, and will not vary or exclude the operation of, any exclusion from or limitation on liability either party may be entitled to claim the benefit of under any Energy Law.

11. Force Majeure.

- (a) The failure by either party to observe or perform wholly or in part any obligation (other than an obligation to pay money) under this Agreement is deemed not to be a breach of this Agreement to the extent the failure was caused by or arose as a consequence of Force Majeure.
- (b) If a party is affected by a Force Majeure, it must notify the other party as soon as reasonably practicable and provide particulars about the Force Majeure, its effect and expected duration (which notice may be given orally and subsequently confirmed in writing).
- (c) The party affected by the Force Majeure must:
 - i. use reasonable efforts to remedy or abate the Force Majeure as quickly as possible; and
 - ii. as soon as possible after the Force Majeure ceases to affect the performance by the affected party of any of its obligations under this Agreement, resume performance of those obligations,

provided that this clause 11(c) does not require the affected party to settle a strike, lockout, boycott, work ban or other industrial dispute.

12. Assignment.

- (a) Subject to clause 12(b), a party may only assign, novate or otherwise transfer its rights and obligations under this Agreement with the prior written consent of the other party, which will not be unreasonably withheld or delayed.
- (b) Without limitation to clause 12(a), AGL may assign, novate or otherwise transfer its rights and obligations under this Agreement to a Related Body Corporate that is a Retailer and the Customer hereby consents to that assignment, novation or transfer and agrees to do and execute or cause to be done or executed any such acts, deeds and assurances whatsoever reasonably necessary to effect that assignment, novation or transfer.
- (c) AGL may request Security from the Customer or the proposed transferee as a condition of its consent under clause 12(a) and clause 4.3 of this Agreement will apply.

13. General provisions.

13.1.Use of Information.

- (a) The Customer consents to AGL seeking and using information concerning the Customer, its Premises, the Customer's electricity consumption, metering, billing and payment data and history (and any related or similar information) for the purposes of this Agreement, any relevant Wholesale Energy Contract, any Energy Law or for any other lawful purpose AGL reasonably considers necessary.

- (b) Unless prevented by law, AGL or its Related Bodies Corporate can use this information to offer to sell the Customer other products and services. The Customer may notify AGL at any time if it does not wish AGL to use this information in this manner.

13.2.Confidentiality of Agreement.

- (a) Each party must ensure that the terms of this Agreement and all commercially sensitive information exchanged between the parties remain confidential.
- (b) Either party may disclose such information:
 - i. with the prior written consent of the other party (including that given under clause 13.1(a));
 - ii. if permitted or required by any law or stock exchange rules; or
 - iii. on a confidential basis to its officers, employees and advisers (or those of a Related Body Corporate) for any purpose which is connected with this Agreement, provided that the party is liable for any further disclosure by its officers, employees and advisers to a person that party is not entitled to disclose such information to under this clause 13.2.
- (c) AGL may disclose such information to a credit reporting agency under the *Privacy Act 1988* (Cth) or to a debt collection agency, if necessary to pursue payment of an outstanding amount owing under this Agreement.
- (d) In no circumstances may the Customer disclose the terms of this Agreement to any person offering, or capable of offering, to sell electricity to the Customer.

13.3.Notices.

- (a) Unless otherwise specified, a notice to AGL must be in writing and sent to the relevant address or email address set out in Item 3 of Schedule 1 (or as varied by notice by AGL from time to time).
- (b) Unless otherwise specified, a notice to the Customer must be in writing and hand delivered or sent to the relevant address or email address set out in Item 2 of Schedule 1 (or as varied by notice by the Customer from time to time).
- (c) Unless actual receipt is earlier confirmed by the recipient, a Notice is taken to be received:
 - i. if sent by mail, on the third Business Day after mailing;
 - ii. if hand delivered, on the day it is delivered;
 - iii. if sent by email, on the next Business Day after sending.

13.4.Exercise of rights.

A party may exercise a right, power or remedy under this Agreement in its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that, or of any other, right, power or remedy. Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

13.5.Severance.

If any term of this Agreement is or becomes for any reason invalid or unenforceable at law, then that term will be deleted from this Agreement without affecting the remainder of this Agreement, which will continue to be valid and enforceable.

13.6.Waiver and variation.

A provision of, or a right created under, this Agreement may not be either:

- (a) waived, except in a Notice signed by the party granting the waiver; or
- (b) varied, except in writing signed by the parties or as otherwise provided in this Agreement.

13.7.Survival.

Clauses 1, 2.5, 3, 4, 5, 6, 8.2, 9.1, 10, 13.1, 13.2, 13.3, 13.4, 13.6, 13.8, 14, 15 and this clause 13.7 survive the termination or expiry of this Agreement.

13.8. Governing Law.

This Agreement shall be interpreted in relation to each Premises, in accordance with the law in force in the State or Territory in which such Premises are located, and the parties submit to the jurisdiction of the courts of the relevant State or Territory, including any courts having appellate jurisdiction from those courts.

13.9. Intermediary commissions.

The Customer acknowledges that if it has engaged an Intermediary in relation to this Agreement, it is aware that a Commission may be payable to the Intermediary. The Customer further acknowledges that it may seek disclosure of the details of any Commission directly from the Intermediary if such details are not disclosed in bills issued by AGL under this Agreement.

14. Interpretation.

- (a) In this Agreement unless the contrary intention appears:
- i. a reference to this Agreement or another instrument includes any variation or replacement of them;
 - ii. the singular includes the plural and vice versa;
 - iii. the word person includes a firm, a body corporate, an unincorporated association or an authority;
 - iv. a reference to one gender includes all genders;
 - v. a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
 - vi. an agreement, representation or warranty on the part of, or in favour of, two or more persons binds, or is for the benefit of them, jointly and severally;
 - vii. a provision must not be construed against a party only because that party prepared it; and
 - viii. mentioning anything after "includes" or "including" will not limit what else might be included.
- (b) Headings in this Agreement are inserted for convenience and do not affect the interpretation of this Agreement.
- (c) A reference to a law, ordinance, code, rule(s) or mandatory guideline includes regulations and other instruments under, and consolidations, amendments, re-enactments, extensions or replacements of that statute, ordinance, code, rule(s) or guideline.
- (d) Where the application of a term of this Agreement is inconsistent with a provision of an Energy Law, then to the extent permitted by that Energy Law, that term will prevail. Otherwise, that term will be read down or modified so that it applies in a manner which is consistent with the relevant provision of that Energy Law (as that provision applies in those circumstances) or, if that is not possible, that term (or relevant part) will be severed in accordance with clause 13.5.
- (e) Where AGL is required by this Agreement to determine an amount payable by the Customer with reference to a charge, liability, cost, expense or penalty:
- i. a notice from AGL as to the amount payable is prima facie evidence of the amount payable and final and binding unless rebutted by the Customer; and
 - ii. AGL may take into account the tax deductibility of any such charge, liability, cost, expense or penalty and the assessable nature of any related amount the Customer pays or owes to AGL.

15. Glossary.

In this Agreement unless the contrary intention appears:

AGL means, if the Premises is located in:

- (a) Victoria, New South Wales, Queensland or the Australian Capital Territory: AGL Sales Pty Limited (ABN 88 090 538 337) of Level 24, 200 George Street, Sydney NSW 2000; or
- (b) South Australia: AGL South Australia Pty Limited (ABN 49 091 105 092) of Level 24, 200 George Street, Sydney NSW 2000.

Agreement means these terms and conditions together with all schedules and appendices.

Applicable Schemes has the meaning in clause 3.4(a).

Approved Energy Loss Factor means, unless explicitly stated to the contrary in this Agreement, the aggregate of any applicable loss factors (including both the intra-regional loss factors and the distribution loss factors) approved by the System Operator or any other regulatory authority from time to time.

ASX means the Australian Securities Exchange (or any successor entity).

Billing Period means a period for which AGL issues a bill, which will be as close as possible to a Contract Month.

Business Day means a day other than a Saturday or Sunday or a public holiday in the State or Territory in which the relevant Premises are located.

Carbon Adjustment means the amount of the increase for that Billing Period calculated using the following formula:

$$CA = CI * CRP$$

Where:

CA Carbon Adjustment for that Billing Period (in \$/MWh);

CI Carbon Intensity;

CRP Carbon Reference Price for that Billing Period.

Carbon Intensity means for the relevant Billing Period:

- (a) the average carbon dioxide equivalent intensity of generators registered under the National Electricity Rules applying to the month immediately preceding the Billing Period as published by, or calculated from information published by, the System Operator from time to time and, where this is published for a period other than a month, on a pro-rata and/or average (as necessary) of the carbon dioxide equivalent intensities published in respect of days or weeks occurring in the month immediately preceding the Billing Period (in tonnes of CO₂-e/MWh); or
- (b) if the System Operator does not publish such an average carbon dioxide equivalent intensity applicable to at least part of the month immediately preceding the Billing Period on or by the second Business Day after the end of that Billing Period, then as determined by AGL acting reasonably.

Carbon Permit means a unit, permit, credit, offset, permission, allowance or other proprietary right capable of being used by its holder to satisfy a liability for the emission of one tonne of carbon dioxide equivalent under the Carbon Scheme and if the Carbon Scheme provides for Carbon Permits with different vintage years or different periods during which they are eligible for surrender, that Carbon Permit is of the vintage year (or other period during which they are eligible for surrender) which corresponds to the financial year (or other relevant period prescribed by the Carbon Scheme) in which the first day of the relevant Billing Period occurs.

Carbon Reference Price means, for the relevant Billing Period (expressed in \$/tonne CO₂-e, exclusive of GST):

- (a) subject to paragraph (c), if in respect of a Carbon Scheme:
 - i. during such time that fixed-price Carbon Permits are issued under the Carbon Scheme and such Carbon Permits are not capable of being traded, that fixed price; or
 - ii. during such time that Carbon Permits are issued under the Carbon Scheme and such Carbon Permits are capable of being traded, the average of the spot price for such Carbon Permits published by the ASX as the daily closing price for each Trading Day occurring during that Billing Period, or if this price is not published for any reason or more than one such price is published, the price that best reflects the average of the market prices for delivery of Carbon Permits occurring during that Billing Period as determined by AGL acting reasonably; or
 - iii. where subparagraphs i. and ii. above are both satisfied, either subparagraph i. or ii. will apply as determined by AGL acting reasonably.

- (b) subject to paragraph (c), if in respect of a Carbon Tax, the Carbon Tax Rate, or if the Carbon Tax does not utilise a Carbon Tax Rate, the rate that best reflects the tax, charge or levy applying to emissions of participants in the National Market during that Billing Period, as determined by AGL acting reasonably; or
- (c) if in respect of a scheme which is both a Carbon Scheme and a Carbon Tax, the price or rate under either paragraph (a) or (b), as determined by AGL acting reasonably.

Carbon Scheme means any mandatory Commonwealth scheme for the management of greenhouse gas emissions or concentrations which applies to emissions relating to the generation or transmission of electric power in the National Market, or emissions from fuel sources used for the generation of electric power in the National Market, and which requires liable persons to hold, acquit or surrender units, permits, credits, offsets, allowances or other similar rights in respect of those greenhouse gas emissions or concentrations.

Carbon Tax means a tax, charge or levy imposed by the Commonwealth Government on liable persons as part of a mandatory scheme for the management of greenhouse gas emissions or concentrations, which applies directly or indirectly to emissions relating to the generation or transmission of electric power in the National Market, or emissions from fuel sources used for the generation of electric power in the National Market.

Carbon Tax Rate means, if the Carbon Tax is imposed as a uniform tax, charge or levy payable by liable persons on the quantity of greenhouse gas emitted by them, that tax, charge or levy.

Commencement Date means:

- (a) if we are not financially responsible under Energy Law for the relevant connection point or connection points for the Premises at the date of this Agreement in relation to a Premises, the first date on which:
- i. we are financially responsible;
 - ii. appropriate Metering Equipment has been installed; and
 - iii. the Customer has satisfied any other pre-conditions notified to the customer by AGL or the Distributor; or
- (b) otherwise, the date specified in Item 2 of Schedule 2 for that Premises.

Commission means any amount that is incorporated into the charges payable by the Customer to AGL under this Agreement, which is remitted by AGL to the Intermediary as a commission for the services the Intermediary provided or provides to the Customer.

Commonwealth Large-scale Renewable Energy Target means the large-scale generation certificate based scheme established under the *Renewable Energy Act and the Renewable Energy (Electricity) (Large-scale Generation Shortfall Charge) Act 2000* (Cth), to encourage additional electricity generation from renewable energy sources.

Commonwealth Small-scale Renewable Energy Scheme means the small-scale technology certificate based scheme established under the *Renewable Energy Act and the Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Act 2010* (Cth), to encourage additional electricity generation from renewable energy sources.

Consequential Loss means loss of income or revenue; loss of profit or anticipated profits; loss of business or financial opportunity; loss of production or loss from business interruption; loss of reputation; punitive or exemplary damage; failure to achieve anticipated savings, reduction of costs, or other savings; and penalties payable under third party contracts.

Contract Month means the period of time beginning on the first Day of a calendar month and ending at the start of the first Day of the following calendar month, except:

- (a) where the Commencement Date is not the first day of a calendar month, the first Contract Month is the period beginning on the Commencement Date and ending at the start of the first Day of the following calendar month; and

- (b) where the last day on which AGL sells electricity to the Customer at the Premises is not the last day of a calendar month, the last Contract Month will be less than a calendar month.

Customer means the person set out in Item 1 of Schedule 1.

Default Rates means the rates applicable to large customers without a retail contract published at www.agl.com.au from time to time, or if not published, the rates AGL in its sole discretion determines are necessary to recover its costs or the costs of a Related Body Corporate of AGL, of acquiring electricity or hedging the cost of acquiring electricity in the National Market and selling electricity to the Customer, plus a reasonable margin.

Delivery of Electricity means the delivery of electricity through a Distribution System to, or in relation to, the Customer's Premises.

Distribution System means the system of electric lines and other equipment through which a Distributor provides Delivery of Electricity.

Distributor means a person entitled by Energy Law to distribute electricity through a Distribution System. If this Agreement covers two or more Premises, there may be two or more Distributors.

E&RE Charges has the meaning in clause 3.4(a).

E&RE Charges Table means the table set out in Item 6 of Schedule 2.

Emissions and Renewable Energy Legislation means the *Renewable Energy (Electricity) Act 2000* (Cth) and any other Energy Law which has as one of its purposes the reduction or limitation of greenhouse gases or the minimisation of the impact on the environment of the electricity industry generally.

Emissions and Renewable Energy Charges means amounts reasonably determined by AGL as should be paid by the Customer on account of any cost or liability imposed on or incurred by AGL, or a Related Body Corporate of AGL, under or as a direct or indirect consequence of any Emissions and Renewable Energy Legislation (including the cost of acquiring renewable energy, energy efficiency or greenhouse gas abatement certificates or any other relevant proprietary right or interest) or any reasonable estimate of any such cost or liability likely to be so imposed on or incurred by AGL, or a Related Body Corporate of AGL, in the future and:

- (a) may be charged in proportion to the Customer's consumption of electricity or otherwise reasonably attributed or apportioned to the Customer;
- (b) where calculated with reference to an amount of electricity, the Approved Energy Loss Factor will be applied against the Emissions and Renewable Energy Charges rates;
- (c) where calculated with respect to a period during the Pricing Term, subject to clause 3.4 excludes charges in respect of costs or liabilities in respect of Applicable Schemes, for which E&RE Charges are payable by the Customer;
- (d) where calculated with respect to a period after the Pricing Termination Date, may include charges in respect of costs or liabilities in respect of Applicable Schemes; and
- (e) may be determined differently after the Pricing Termination Date to how they are determined during the Pricing Term.

Emissions and Renewable Energy Scheme means a scheme, program or requirement established under Emissions and Renewable Energy Legislation under which AGL, or a Related Body Corporate of AGL, is liable to purchase, hold, acquit or surrender renewable energy or greenhouse gas abatement units or certificates or any other similar proprietary right or interest in respect of electricity purchased for, sold to, or consumed at, the Premises, such schemes which may include the Commonwealth Large-scale Renewable Energy Target, the Commonwealth Small-scale Renewable Energy Scheme, the NSW Energy Savings Scheme and the Victorian Energy Efficiency Target Scheme.

Energy Charges means the charges payable under clause 3.1.

Energy Charge Rates means, in relation to a nominated period and Premises, the rates set out in Item 5 of Schedule 2, which will apply to the period or periods ending no later than the Expiry Date, or the rates applying under clause 3.7, for that period and Premises.

Energy Law means any statute, regulation, code, rules, direction, mandatory guideline, licence condition or other regulatory instrument which governs or affects any one or more of the price of electricity, the cost to AGL of purchasing or selling electricity, the Delivery of Electricity, the sale of electricity to the Customer or the electricity industry generally.

ESC means an energy savings certificate created under the NSW Energy Savings Scheme.

Estimated Total Annual Consumption means the estimated total annual consumption set out in Item 8 of Schedule 2.

Expiry Date means in relation to a Premises, the date set out in Item 3 of Schedule 2 for that Premises.

Final Period has the meaning in clause 3.4(a)ii.

Final Scheme Percentage means, in relation to a calendar year:

- (a) in relation to ESCs, the value calculated as the product of the energy savings scheme target multiplied by the energy conversion factor for that year, each as set out in Schedule 5 of the NSW Act;
- (b) in relation to LGCs, the renewable power percentage for that year determined in accordance with Part 4, Division 2 of the Renewable Energy Act (expressed in decimals);
- (c) in relation to STCs, the small-scale technology percentage for that year determined in accordance with Part 4, Division 2A of the Renewable Energy Act (expressed in decimals); and
- (d) in relation to VEECs, the greenhouse gas reduction rate for electricity for that year determined in accordance with Part 4 of the VIC Act.

Force Majeure means in relation to a party, any event or circumstance outside that party's reasonable control and which is not reasonably able to be prevented or overcome by the exercise of reasonable care by that party, including:

- (a) an act of God, insurrection, industrial disputes of any kind, epidemics or any other risks to health or safety;
- (b) the order of any court or the award of any arbitrator, any order, act or omission of government or other regulatory body or any inability or delay in obtaining governmental, quasi-governmental or regulatory approvals, consents, permits, licences or authorities; or
- (c) any order, direction, act or omission of a third party (including the System Operator, a generator or transmission operator or the Distributor).

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

Increased Costs Event means where:

- (a) a new Tax is imposed or the basis for imposing or calculating any Tax changes;
- (b) AGL, or a Related Body Corporate of AGL, incurs any liability, cost or reduction in benefit due to or arising from the introduction of, or a change to an Energy Law or a change to the interpretation or effect of an Energy Law;
- (c) the System Operator becomes entitled pursuant to an Energy Law to levy or recover any charges, costs or other imposts; or
- (d) AGL, or a Related Body Corporate of AGL, incurs a liability, cost or reduction in benefit pursuant to a Wholesale Energy Contract in circumstances contemplated by that Wholesale Energy Contract relating to:
 - i. Taxes;
 - ii. participation in the National Market;
 - iii. the principles upon which use of system fees relating to the use of transmission or distribution systems are allocated; or

- iv. a change to or introduction of an Energy Law or a change to the interpretation or effect of an Energy Law.

Insolvency Event includes the appointment of an administrator or receiver, voluntary administration, compromise, arrangement, official management, winding-up, dissolution, cessation of business, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy or any similar procedure or where applicable, changes in the constitution of any partnership or person, or any failure to provide credit support when required by this Agreement.

Interest Rate means the Westpac Banking Corporation corporate overdraft reference rate as at the date payment is due in accordance with the Payment Terms plus a margin of 2% per annum.

Interim Period has the meaning in clause 3.4(a)i.

Interim Scheme Percentage means, in relation to a calendar year:

- (a) in relation to ESCs, the value calculated as the product of the energy savings scheme target multiplied by and the energy conversion factor for the previous year, each as set out in Schedule 5 of the NSW Act;
- (b) in relation to LGCs, the renewable power percentage for the previous year determined in accordance with Part 4, Division 2 of the Renewable Energy Act (expressed in decimals);
- (c) in relation to STCs, the small-scale technology percentage for the previous year determined in accordance with Part 4, Division 2A of the Renewable Energy Act (expressed in decimals); and
- (d) in relation to VEECs, the greenhouse gas reduction rate for the previous year determined in accordance with Part 4 of the VIC Act.

Intermediary means a broker, buying group or other third party involved in providing energy brokering, procurement or contracting advice to the Customer.

LGC means a large-scale generation certificate created under the Commonwealth Large-scale Renewable Energy Target.

Lower Consumption Level means 90% of the aggregate Estimated Total Annual Consumption for the relevant State or Territory.

Market Charges means any charge imposed by Energy Law, the System Operator, any other regulatory authority or with the Customer's agreement, and includes any ancillary services, charges or costs and any other charges associated with operation of the National Market.

Metering Charges means:

- (a) all metering costs incurred by AGL or charges in relation to the provision of Metering Equipment and any Metering Installation and the collection and distribution of metering data; plus
- (b) the Responsible Person Fee.

Metering Provider means a person or persons nominated by AGL and appointed by the System Operator to do one or more of the following:

- (a) supply and install Metering Equipment and/or Metering Installations;
- (b) read Metering Equipment;
- (c) collect, process and transmit metering data to the Distributor, the System Operator, any relevant regulatory entity, AGL or the Customer; or
- (d) provide any additional metering-related services to AGL in respect of the Premises.

Metering Equipment means equipment installed (or to be installed) to measure, record and in certain cases forward the data relating to the amount of electricity delivered to a Premises from the Distribution System.

Metering Installation has the meaning set out in the National Electricity Rules and includes, for the avoidance of doubt, the links that provide remote access communications with the

installation, the metering current transformers and the voltage transformers.

National Electricity Law means the schedule to the *National Electricity (South Australia) Act 1996* (SA).

National Electricity Rules means the National Electricity Rules made under the National Electricity Law.

National Market means the Australian wholesale electricity market operated under the National Electricity Rules.

Network Charges means any costs charged by the Distributor to AGL in relation to the Customer's Premises including the cost of Delivery of Electricity and connection to the Distribution System and any excluded services.

NMI has the meaning given in the National Electricity Rules.

Notice means a notice which conforms with the requirements of clause 13.3 (Notices).

NSW Act means the *Electricity Supply Act 1995* (NSW).

NSW Energy Savings Scheme means the scheme established under the NSW Act and the Energy Savings Scheme Rule on 1 July 2009 to encourage energy-saving activities that improve energy efficiency and/or reduce electricity consumption in residential, commercial and industrial settings.

Off Peak means all other times not defined under Peak or Shoulder.

Payment Terms has the meaning set out in Item 4 of Schedule 1 in relation to a bill.

Peak means:

- (a) for New South Wales and the Australian Capital Territory, 7.00 am – 9.00 am and 5.00 pm – 8.00 pm local time on Business Days;
- (b) for South Australia, 7.00 am – 9.00 pm local time on Monday to Friday;
- (c) for Victoria, 7.00 am – 11.00 pm local time on Monday to Friday; and
- (d) for Queensland, 7.00 am – 11.00 pm local time on Business Days and Gazetted Show holidays throughout Queensland.

Premises means each of the Premises set out in Item 1 of Schedule 2, as amended pursuant to clause 9.3, and where the context requires it, all of those Premises.

Pricing Term means the period from the Commencement Date to the Pricing Termination Date.

Pricing Termination Date means, in relation to each Premises, the earlier of:

- (a) the Expiry Date for that Premises; and
- (b) the date this Agreement terminates under clause 8 or is otherwise terminated by a party.

Related Body Corporate has the meaning given in section 9 of the *Corporations Act 2001* (Cth) and when referring to AGL, includes AGL Hydro Partnership ABN 86 076 691 481.

Renewable Energy Act means the *Renewable Energy (Electricity) Act 2000* (Cth).

Responsible Person Fee means the fee or fees (if any) set out in Item 9 of Schedule 2, or as applied under clause 5.2.

Retailer means a person entitled by Energy Law to retail electricity.

Retail Service Fee means the fee or fees as set out in Item 7 of Schedule 2.

Security means an irrevocable and unconditional undertaking given to AGL by an Australian bank, a refundable deposit or pre-payment, guarantee from a third party or other security, on terms acceptable to AGL and in an amount determined by AGL in its discretion, having regard to the Customer's electricity consumption and payment history and AGL's policies, provided that the amount of Security will not exceed 3 months' average charges (calculated by reference to a 12 month period).

Services Charges means the fee AGL may charge the Customer for any other products or services AGL agrees to provide to the Customer.

Shoulder means, for New South Wales and the Australian Capital Territory, 9.00 am – 5.00 pm and 8.00 pm – 10.00 pm local time on Business Days.

STC means a small-scale technology certificate created under the Commonwealth Small-scale Renewable Energy Scheme.

System Operator means any person or body appointed under Energy Law whose functions are, amongst other things, to operate and administer the National Market, control the security of the electricity supply system, or regulate and monitor the electricity transmission system.

Taxes means any taxes, levies, imposts, deductions, charges, withholdings or duties, other than income tax, fines or penalties.

Trading Day means a day on which the ASX is due to be open for trading during its regular trading session.

Upper Consumption Level means 110% of the aggregate Estimated Total Annual Consumption for the relevant State or Territory.

VEEC means a Victorian energy efficiency certificate created under the Victorian Energy Efficiency Target Scheme.

VIC Act means the *Victorian Energy Efficiency Target Act 2007* (Vic).

Victorian Energy Efficiency Target Scheme means the scheme established under the VIC Act to reduce greenhouse gas emissions and encourage investment, employment and technology development in industries that supply goods and services which reduce the use of electricity and gas of consumers.

Wholesale Energy Contract means a wholesale, power purchase, hedge or other similar contract that has the purpose or effect of reducing AGL's (or a Related Body Corporate of AGL's) exposure to the volatility of the wholesale cost of acquiring electricity in the National Market.

Call us on **1300 793 477**

Monday to Friday, 8.30am until 5.30pm AEST – (excluding public holidays)

or visit agl.com.au/business