

GENERAL TERMS AND CONDITIONS - DIRECT METERING

1. AGREEMENT

These Terms and Conditions and the Service Order Request form the agreement between Powermetric and the Customer for the Services. If there is any inconsistency between the Service Order Request and these Terms and Conditions, these Terms and Conditions prevail.

2. TERM AND RENEWAL

2.1. Term

Subject to clauses 2.2 and 9, Powermetric will provide the Services for the Term.

2.2. Extension

- (a) The Term will be extended for a further 12 month period unless either party gives notice to the other:
 - (i) not less than 90 days prior to the End Date; and
 - (ii) stating that the Term will terminate on the End Date.
- (b) If neither party gives notice under clause 2.2(a), the End Date will be varied for the purposes of this agreement to be the date that is 12 months from the End Date.
- (c) The provisions of this clause 2.2 apply to extend the Term for consecutive further 12 month periods until a party gives notice under clause 2.2(a).

3. METERING SERVICES

3.1. Condition Precedent

Powermetric is under no obligation to provide the Services at a Site until:

- (a) the Responsible Person has notified Powermetric that it is permitted to perform the Services; and
- (b) the Responsible Person has appointed Powermetric as the Metering Coordinator, for the Site and the appointment has been registered in MSATS.

3.2. Required Standard

Powermetric will perform the Metering Services in a professional and efficient manner and in accordance with all relevant Australian Standards, authorisations, laws and any relevant processes and procedures under the Rules.

3.3. Access To Site

The Customer must ensure that Powermetric and its contractors have safe access to the Site to install, maintain and remove Metering Installations.

3.4. Customer's Obligations

- (a) The Customer must request the Customer's Retailer appoints Powermetric as the Metering Coordinator for each Metering Point, and to do all things necessary for the appointment to be registered in MSATS.
- (b) The Customer must not interfere, modify or alter the Metering Installation.
- (c) The Customer must ensure that the Metering Installation is protected from damage.

- (d) The Customer must ensure that the Metering Installation is only used for its intended use.
- (e) The Customer is responsible for providing the facilities and utilities that are reasonably required for the purpose of performing the Metering Services.
- (f) Except in relation to Powermetric Metering Equipment, the Customer must take such actions, or procure others to take such actions required (as notified by Powermetric) to ensure the Metering Installation complies with the Rules.
- (g) The Customer is responsible for, and must compensate Powermetric for any loss, damage, claim or expense reasonably incurred or suffered by Powermetric (including claims made by third parties, not limited to the Customer's Retailer) as a result of the Customer's breach of its obligations under this agreement.

3.5. Title

Powermetric retains title to all Powermetric Metering Equipment.

3.6. Insurance

Powermetric will effect and maintain all insurances required under the Rules during the Term.

4. PAYMENT

4.1. Invoicing

- (a) The Customer is responsible for payment of the Fees.
- (b) Unless the Customer elects to pay the Fees directly to Powermetric, subject to clause 4.1(c), the Fees will be included on the Customer's retail electricity bill and paid by the Customer via its Retailer.
- (c) Fees will be charged monthly in arrears from the date Powermetric starts providing the Metering Services in relation to the relevant Metering Point.
- (d) If the Customer's Retailer does not include the Fees on the Customer's retail electricity bill, or the Customer does not pay the Fees via its Retailer, Powermetric may invoice the Customer directly for the Fees. Invoices will be issued monthly and must be paid by the Customer within 30 days of the date of receipt.

4.2. Interest on Late Payments

If the Customer is late in paying the Fees, Powermetric may charge the Customer interest at the Interest Rate.

4.3. GST

- (a) All amounts payable under or in connection with this Agreement are exclusive of GST.
- (b) A recipient of a taxable supply must pay to the supplier, in addition to the GST exclusive consideration for the taxable supply, an amount equal to any GST paid or payable by the supplier in respect of the taxable supply.

- (c) The recipient must make that payment to the supplier as and when the GST exclusive consideration or part of it is provided, except that the recipient need not pay unless the recipient has received a tax invoice (or an adjustment note) for that taxable supply.

5. VARIATIONS TO METERING SERVICES

- (a) The Customer may request Powermetric to vary the Services by adding additional products or services, and/or adding or deleting a Site.
- (b) If information (provided by persons other than Powermetric or its contractors) relating to a Metering Installation is inconsistent with the actual Metering Installation or the Metering Installation is not compliant with the Rules and Powermetric determines additional products and/or services are required to perform the Service, Powermetric may advise the Customer of a variation to the Services.
- (c) Upon receipt of a request under clause 5(a) or advice by Powermetric under clause 5(b) the parties must agree:
 - (i) the date on which the Services are to be varied; and
 - (ii) any variation to the Fee payable.
- (d) A variation to the Services will not take effect unless and until the parties agree the matters described in clause 5(c).

6. BROKER

- (a) The Broker may be paid a fee (other than under this agreement) by Powermetric for facilitating the Customer's entry into the Direct Metering Agreement with Powermetric.
- (b) The Customer consents to and authorises Powermetric to release electricity consumption data for the Site to the Broker.

7. TESTING OF METERING INSTALLATION

- (a) The Customer may request that Powermetric test the accuracy or operation of any Metering Installation associated with the provision of the Metering Services. The Customer is responsible for all costs associated with the testing of any part of the Metering Installation that is not Powermetric Metering Equipment.
- (b) If the tests determine that the accuracy or operation of Powermetric Metering Equipment complies with the applicable regulations then the Customer is responsible for paying for the cost of conducting the tests.

8. WEBSITE ACCESS AND USE

The Customer's access to Powermetric's Energy Profiler (PEP) is governed by the terms set out in this clause and the "Terms of Use" displayed on the website from time to time. The Customer acknowledges and agrees that:

- (a) data available via the PEP is provided on an "as is" and "as available" basis;
- (b) Powermetric does not guarantee that the use of the PEP will be uninterrupted or error-free;
- (c) Powermetric will use all reasonable endeavours to ensure the data displayed on PEP is accurate at the time of display.

- (d) Powermetric is not liable for any loss or damage suffered or incurred by the Customer as a result of its use of the PEP or use of or reliance on data obtained from the PEP.

9. DEFAULT AND TERMINATION

- (a) Either party may terminate the Agreement by written notice if:
 - (i) the other party is in breach of the Agreement and fails to remedy the breach within 10 days of being notified in writing of the breach; or
 - (ii) the other party becomes insolvent.
- (b) The Customer may terminate the Agreement if Powermetric ceases to be registered as a Metering Coordinator, Metering Provider and/or Metering Data Provider.
- (c) Either party may terminate this Agreement at any time by giving not less than 30 days written notice to the other party.
- (d) If the Customer terminates this Agreement under clause 9(c) prior to the end of the Term, it must pay Powermetric:
 - (i) if the termination occurs within 12 months of the Start Date:
 - (A) 100% of the Metering Fees for the remaining portion of the first 12 month period; plus
 - (B) 65% of the balance of the Metering Fees for the balance of the Term that remains after the first 12 month period; or
 - (ii) if the termination occurs more than 12 months after the Start Date, 65% of the balance of the Metering Fees for the remainder of the Term.
- (e) The Customer acknowledges that:
 - (i) the Metering Fees are based on the expectation that Powermetric will provide the Services for the full Term; and
 - (ii) the payments to Powermetric under clause 9(d) are a genuine pre-estimate of the loss that Powermetric will suffer as a result of the early termination of this Agreement.
- (f) Powermetric must continue to provide the Metering Services and the Customer must continue to pay the Metering Fee in relation to any Metering Services provided by Powermetric up to the later of:
 - (i) the date of the termination of this agreement; or
 - (ii) the appointment of a new Metering Coordinator in relation to the Site.
- (g) The Customer must allow Powermetric access to the Site to obtain and remove any products or other equipment owned by Powermetric at the date of termination.

10. LIABILITY

10.1. Limitation of Liability

Subject to clause 10.2, Powermetric's liability for a failure to comply with this Agreement or for negligence in relation to the provision of Metering Services is

limited to the Metering Fees payable by the Customer under this agreement.

10.2. Exception to limitation

The limitation of liability in clause 10.1 does not apply in relation to a claim for:

- (a) personal injury or death; or
- (b) property damage,

in which case, Powermetric's liability is limited to the amounts recoverable in respect of the claim under any policy of insurance required to be held under this agreement.

10.3. Implied Conditions and Warranties

Powermetric's liability under this agreement is excluded to the maximum extent permitted by law and all conditions, warranties or rights are expressly excluded. To the extent that there are any implied conditions, warranties or rights that cannot be excluded but can be limited, Powermetric's liability is (at Powermetric's option) limited to:

- (a) providing equivalent goods or services; or
- (b) paying the cost of replacing the goods or services or acquiring equivalent goods or services.

10.4. Exclusion of Consequential Loss

No party will be liable under this agreement to the other for any special, indirect, consequential or punitive loss or damage including loss of revenue, loss of profits, loss of or corruption of data, failure to realise expected savings or other commercial or economic loss of any kind.

11. FORCE MAJEURE

If Powermetric is delayed or is unable to perform, wholly or in part, any obligation under the Agreement by reason of Force Majeure this Agreement shall remain in effect except that such obligation shall be suspended accordingly, Powermetric will not be liable for non-performance of that obligation for the period during which Powermetric is affected. Notwithstanding the foregoing, a party's obligation to pay a sum of money pursuant to any obligation under the Agreement will not be released or discharged as a result of Force Majeure.

12. GENERAL PROVISIONS

12.1. Governing Law

- (a) This agreement is governed by Queensland law.
- (b) Each party submits to the non-exclusive jurisdiction of the courts having jurisdiction in Queensland.

12.2. Notices

Notices under this agreement must be in writing and may be delivered by hand, or sent by mail or email to the addresses set out in the Service Order Request, or any other addresses notified by the relevant party from time to time.

12.3. TRANSFER

The Customer must not transfer its rights or obligations under this Agreement without the consent of Powermetric (which consent must not be unreasonably refused).

12.4. SEVERABILITY

Any provision of this Agreement that is unenforceable or partly unenforceable is, where possible, severed to

the extent necessary to make this agreement enforceable.

12.5. ENTIRE AGREEMENT

This agreement contains the entire agreement of the parties about its subject matter.

13. DEFINITIONS

Unless the context otherwise requires, terms used in this Agreement that are defined in the Rules, the *Corporations Act 2001* (Cth) or the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as relevant) have those respective meanings. If a word is defined, other grammatical forms of that word have a corresponding meaning.

AEMO means the Australian Energy Market Operator responsible for operating the energy markets and systems in eastern and south-eastern Australia.

Broker means the Customer's consultant (if any) specified in the Service Order Request.

Broker Service Charges means the charges (if any) specified in the Service Order request for Value Added Services provided by the Broker to the Customer.

Customer means the entity specified in the Service Order Request.

Data Forwarding (DF) means the delivery of data by electronic means to a customer and/or its Broker. This data is typically delivered on a daily basis and provides consumption details for the previous day for the Customer's NMI/ NMIs.

End Date means the date specified in the Service Order Request, as extended under clause 2.2(b).

Enhanced Information Services means services that are provided that are in addition to the MC Services and the MP/MDA services. These services may include access to the PEP, DF and other information based products that are offered by Powermetric.

Fees means the aggregate of:

- (a) the fees specified in the Service Order Request including the Metering Fee and any fees for other Enhanced Information Services or other services agreed; and,
- (b) any Broker Service Charges specified in the Service Order Request.

Force Majeure means any event beyond the reasonable control of Powermetric including any failure in the telecommunications network that prevents the transmission of metering data.

Interest Rate means 2% above the corporate overdraft reference rate (from time to time) quoted by the Commonwealth Bank of Australia, or, if that reference rate does not exist, another similar rate nominated by Powermetric.

MC Services means all services that a metering coordinator is required to provide at a Metering Installation under the Rules.

Metering Coordinator means a person who is registered by AEMO as a Metering Coordinator under Chapter 2 of the Rules.

Metering Equipment means any equipment associated with the Metering Installation.

Metering Data Provider has the meaning given to it in the Rules.

Metering Fee means the fee per Metering Point specified in the Service Order Request that is payable by the Customer for the Metering Services.

Metering Installation has the meaning given to it in the Rules.

Metering Point means the point of physical connection of the device measuring the current in the power conductor at the Metering Installation.

Metering Services means the MC Services and the MP/MDA Services and other Enhanced Information Services as specified in the Service Order Request.

MP means a Metering Provider Category "A", "B", "C" or "D", established by AEMO in connection with the process for accreditation and registration of any person as a Metering Provider in accordance with the Rules.

MP/MDA Services means:

- (a) the provision, installation, maintenance routine testing and inspection services ;
- (b) the provision of metering data services, in respect of a Metering Point in a manner that is in accordance with the Rules but does not include the supply, installation, testing or repair of non Powermetric Metering Equipment such as current transformers and voltage transformers.

MSATS means the market administration system as used by the electricity market for site registrations.

Powermetric means Powermetric Metering Pty Ltd ABN 89 131 072 707.

Powermetric's Energy Profiler (PEP) means a web-based information portal hosted by Powermetric that provides eligible customers with access to their electricity consumption details generally on a day after basis.

Powermetric Metering Equipment means any Metering Equipment that is owned by Powermetric and may be identified with the Powermetric logo.

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

Services means the Metering Services and other agreed services as specified in the Service Order Request, as varied from time to time in accordance with these Terms and Conditions.

Service Order Request means Powermetric's standard form service order request with all details including pricing completed and signed by both the Customer and Powermetric.

Site means the premises where a Metering Installation is installed and maintained, as specified in the Service Order Request.

Start Date means the date specified in the Service Order Request.

Term means period commencing on the Start Date and ending on the End Date, as extended in accordance with clause 2.2.

Value Added Services (VAS) means services provided (other than under this agreement) by the Customer's Broker.