

COMMERCIAL ELECTRICITY SUPPLY

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions apply to any **site** for which the contract type is time of use (TOU).

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1 GENERAL

If you have entered into a direct agreement with the **network operator**, or **Transpower** in respect of any of your **sites** listed in **this agreement** for which the contract type is TOU, that agreement will replace all parts of **this agreement** dealing with your responsibilities to the **network operator** or **Transpower** in respect of those **sites**.

The terms and conditions under this contract are additional to, and should be read in conjunction with, our Standard Terms and Conditions for the Supply of Electricity ("Standard Terms"). In the event of inconsistency between the Plan terms and conditions and our Standard Terms, the Standard Terms shall prevail.

Clauses in **this agreement** that relate to you exporting electricity only apply to you if we have consented to you exporting electricity under **this agreement**.

Supply Start Date and Term

- 1.1 **This agreement** will commence on the **commencement date**. Subject to clauses 2.2 and 10 of **this agreement**, **this agreement** will remain in full force until the **expiry date**.
- 1.2 We will start supplying electricity to you at each **site** on the "**supply start date**" for that **site**, which is the date that the relevant **points of supply** are switched to us. This will be the later of:
 - (a) the proposed supply start date for the site set out in the offer forming part of **this agreement**; and
 - (b) any later date that we set as a result of you not complying with your obligations under **this agreement**.

Services

- 1.3 We agree to supply and sell to you (either directly or from a third party) and you agree to receive and pay for the following services in relation to the **points of supply** set out in **this agreement**:
 - (a) **electricity supply services**;
 - (b) **metering services**; and
 - (c) in respect of each of your **points of supply** with an interposed connection, **line function services**,

upon the terms and conditions of **this agreement**.

Invoicing

- 1.4 We will use reasonable endeavours to send monthly invoices to you for the **charges** incurred during the previous month on or before the 10th **business day** of each month. All invoices will be due and payable by you to us by the 20th day of the month in which the invoice is received.
- 1.5 If an invoice is not sent to you on or before the 10th **business day** of the month, then the due date for that invoice will be 8 **business days** after the date of the invoice.
- 1.6 Unless you have disputed the accuracy of an invoice in accordance with **this agreement**, payment must be made without deduction or set-off.

Your Obligations Prior to Supply Start Date

- 1.7 On or before the date you enter into **this agreement**, and at any time that the details you provided us change, unless we agree otherwise, you must:
- (a) for any **sites** at which we are unable to read your meters remotely, provide us with accurate meter location, access and installation details and all keys or security cards necessary to allow us to locate, gain access to, and read your meters at that **site**. Where security restrictions prevent this, you will ensure other access arrangements are in place during **business hours**;
 - (b) where we do not provide you with **metering installations** at that **site**:
 - i. provide us with copies of certificates from an **approved test house** certifying that each **metering installation** is currently fully compliant with all requirements of the **code**;
 - ii. ensure that all **metering installations** are able to be accessed remotely and directly by modem (unless we agree otherwise) and read by our Half Hour Data Administrator;
 - iii. ensure that all **metering installations** are able to record a minimum of active and reactive electricity per **half hour**;
 - iv. ensure that all **metering installations** meet the **network operator's** requirements for calculating **line function services charges**; and
 - v. provide us with the following information for each **metering installation**:
 - (aa) the meter's description;
 - (bb) ICP number;
 - (cc) the name of the owner;
 - (dd) the metering installation category as specified in schedule 10.1 of the **code**;
 - (ee) whether the metering system is import only, export only or import/export. (Your meter will only be import/export if you generate electricity on your site);
 - (ff) the number of meter points or feeds into your site; and
 - (gg) whether your ICP connection is "**EG**", "**EN**", "**GD**", "**GN**" or "**SB**".

If you fail to comply with the above obligations in relation to a site, we may, in addition to our other rights and remedies under **this agreement**, delay the **supply start date** for that site until up to 15 **business days** after you comply with the above obligations.

Compliance with the Code

- 1.8 You may have obligations under the **code**, particularly if you have a **GD ICP** connection or are an **embedded generator**. It is your responsibility to comply with all applicable **code**. We are not responsible for your non-compliance.

2 ELECTRICITY SUPPLY

General

- 2.1 You acknowledge that we do not own or operate any **network** and therefore you agree that:
- (a) You will comply with all relevant provisions of any **use of system agreement** with a **network operator** and **network connection standards**, relating to a **network** through which your **sites** are supplied. We reserve the right to amend **this agreement** from time to time for that purpose. Such provisions are for the benefit of and enforceable by ourselves and the **network operator** against you in accordance with the Contract and Commercial Law Act 2017.
 - (b) Notwithstanding anything in **this agreement**, we will not be liable to you for anything whatsoever in relation to the provision of **line function services** by any **network operator** or transmission by **Transpower** except to the extent that we are able to recover any amount from the **network operator** pursuant to the relevant **use of system agreement**.
- 2.2 Even if **this agreement** is terminated or expires you are, subject to clause 4, liable for all electricity measured in accordance with **this agreement** as being supplied to you until the site is disconnected or switched to another retailer, as well as for any other accrued **charges**. We will endeavour to notify you at least 2 months prior to the **expiry date**. All electricity measured in accordance with **this agreement** as being supplied to you after the date of termination or expiry will be charged at Spot Rate + 5 cents per kWh administration fee (this rate is subject to change by Adonis Energy on 30 days' notice) and is deemed to be supplied to you upon the terms and conditions of **this agreement**. All electricity measured in accordance with **this agreement** as being supplied by you to us after the date of termination or expiry will be invoiced at the **spot rate** and you will pay us 1 cent per kWh. All electricity is deemed to be supplied by you upon the terms and conditions of **this agreement**.
- 2.3 If you are charged at the **spot rate** or at a price specified with reference to the **spot rate** (for example **spot rate** plus 10 (ten) cents per kWh), you should be aware that the Electricity Authority has developed the spot price risk disclosure regime. Part of that regime is "stress testing", which describes potential spot price outcomes during various market stress scenarios (extended droughts, sudden capacity shortage, etc.). We recommend you familiarise yourself with stress testing and apply the stress tests contained in the regime to your own circumstances. In particular:
- (a) Further details on the regime can be found at:
<https://www.ea.govt.nz/industry/wholesale/spot-market/stress-tests/large-scale-consumer-stress-tests/>
 - (b) Various spot prices around the country can be seen at:
<http://www.electricityinfo.co.nz/comitFta/ftapage.main>.
 - (c) The Electricity Authority has produced a booklet entitled "Managing price risk – a guide for consumers" – a copy is available here: https://www.AdonisEnergyenergy.co.nz/public/Terms-and-conditions/Managing_electricity_spot_price_risk_guide.pdf

- 2.4 We may require you to supply us with a copy of any certificate in relation to any of your **sites** required by the Electricity (Safety) Regulations 2010 before we supply electricity to that site.

Your Electricity Demand

- 2.5 The **code** requires us to give notice of changes in your demand for electricity. You will provide us with all information about your electricity demand that we reasonably require. This requirement and clauses 2.6 to 2.8 do not apply to normal scheduled commencement and cessation of operations or if your total aggregate electricity consumption across all of your **sites** is less than 3 GWh per annum.
- 2.6 You will give us at least 3 hours warning of any decrease or increase in the **half hour** maximum demand for any of your **points of supply** if that change exceeds the limits stated in the table below:

Demand per point of supply	Notification threshold
Less than 1 MW	Change from standard of +/-500kW
1 MW to 5 MW	Change from standard of +/-750kW
5 to 10 MW	Change from standard of +/-1MW
Over 10 MW	Change from standard of +/-2MW
Over 20 MW	Change from standard of +/-3MW

- 2.7 You must limit the magnitude of any instantaneous changes in your electricity demand and the rates of change in your demand to the levels that we reasonably require.
- 2.8 You will give us as much warning as possible when you intend to materially increase or decrease your total demand in response to changes in the **spot rate**.

Interruptions to Electricity Supply

- 2.9 We are committed to providing your electricity supply in a way that complies with all relevant laws, including the **code**. However, supply to you may not be continuous or uninterrupted and the voltage or frequency of electricity may not be steady.
- 2.10 We, the **network operator** or **Transpower** may interrupt or disrupt the electricity supply to any of your **sites** at any time if we, the **network operator** or **Transpower** consider it necessary to do so for the reasons set out in the **use of system agreement** or in **this agreement**. In particular, an interruption of your supply may be made by us or the **network operator** or **Transpower**:
- (a) so any machinery, **equipment** or apparatus connected to your **site** or another person's site can be installed, maintained, upgraded, altered, replaced or repaired;
 - (b) for health and safety reasons;
 - (c) to preserve or protect the proper working of the network;
 - (d) to ensure the quality and safety of your electricity supply or of the electricity supply to a third party;
 - (e) if we, the predominant retailer or the **network operator** or **Transpower** are of the opinion that a **constrained supply situation** exists or is imminent;

- (f) in circumstances where to supply all of our customers would place us in breach of our pre-existing obligations;
- (g) to comply with instructions from **Transpower**;
- (h) to comply with the law, including the **code**;
- (i) to comply with instructions from any regulatory authority; or
- (j) relating to a **force majeure event**.

- 2.11 In exercising the rights under clause 2.10, we, the **network operator** or **Transpower** may interrupt or disrupt the electricity supply to any of your **sites**. We may exercise these rights at our absolute discretion whether or not we, the **network operator** or **Transpower** also interrupt or disrupt the electricity supply to any other purchasers of electricity.
- 2.12 For planned interruptions that we control, we will use reasonable endeavours to give you at least 5 **business days'** notice.
- 2.13 Following an interruption, we will endeavour to return your electricity supply to normal as soon as reasonably practicable.
- 2.14 We will use reasonable endeavours to ensure that the **network operator** gives reasonable notice of any planned interruption under sub-clauses 2.10(a) to (i) in order to facilitate your reaching an accommodation with the **network operator** to limit the effects on you of the interruption.

3 POINT OF SUPPLY, TITLE AND RESPONSIBILITY

Point of Supply

- 3.1 The electricity supply will be given and taken at each of your **sites**, at the **points of supply**.

Title

- 3.2 The title to, risk and ownership of electricity:
- (a) supplied and delivered by us will pass to you at the time of delivery to your **point of supply**; and
 - (b) supplied and delivered by you will pass to us at the time of delivery to your **point of supply**.
- 3.3 You acknowledge that the **network**, including any part of the **network** situated on the **sites**, is and will remain the sole property of the **network operator** and no provision of this agreement nor the provision of any services by the **network operator** in relation to the **network** confers on you or any other a person, a property right or other interest in or to:
- (a) any part of the **network**, or any **equipment** owned, leased or controlled by the **network operator**, which is used to provide any such services; or
 - (b) any part of the **metering installation** owned by any person other than you.

Responsibility

- 3.4 You are responsible for looking after the **metering installation** and all of **your installations** and you must:
- (a) be responsible for the safety and security of the **metering installation** and any of **your installations** beyond each **point of supply**;
 - (b) at all times comply with your obligations under any law in respect of the operation of the **metering installation** and any of **your installations**;
 - (c) ensure that there is sufficient safe and secure space and associated wiring on your **sites** for any metering **equipment** we consider necessary;
 - (d) maintain the clearances required by us or the **network operator** between the **network operator's equipment**, each installation and the buildings, ground, trees and vegetation on, or overhanging, your **sites**;
 - (e) not take or allow any person to take an electricity supply from any point between a **point of supply** and the **metering point**;
 - (f) not allow any person to interfere with or alter any **point of supply** or **metering installation** without our prior written approval; and
 - (g) not use, or allow any person to use, the **network** to send or receive any signal or communication.
- 3.5 You are also responsible for:
- (a) the protection (at your expense) of all of our and the **network operator's equipment** and **metering installations**:
 - (i) located on your **sites**; or
 - (ii) running from the boundary of your **site** up to the **point of supply**,against interference and damage.
 - (b) any damage caused to our or the **network operator's equipment** referred to in clause 3.5(a) above, or any **metering installations**, unless you can prove that the damage was not caused by your negligence, wilful act or omission, or through failure by you to provide the protection required by this clause 3.
- 3.6 Subject to any written agreement between you and the **network operator**, and any statutory provision, you are responsible for complying with the Electricity (Hazards from Trees) Regulations 2003 in respect of any trees that you have an interest in that are near the **Grid** or any line that forms part of the **network** (these regulations are available from the Energy Safety Service (www.energysafety.govt.nz));
- 3.7 You acknowledge that surges or spikes in your electricity supply are momentary fluctuations in voltage or frequency that can happen at any time and are not treated as interruptions to your electricity supply. These fluctuations could damage sensitive equipment. We do not control the quality of electricity that you receive and we are not responsible for any damage that results from such fluctuations. You are responsible for ensuring that all of **your installations** have adequate protection from fluctuations in

voltage and frequency. You acknowledge that some fluctuations in voltage and frequency may be extreme and it may not be possible to adequately protect **your installations** against them.

3.8 The benefit of clauses 3.4(d) and 3.5 extends to and is enforceable by the **network operator** pursuant to the Contract and Commercial Law Act 2017.

3.9 In the interests of safety and other regulatory requirements, you may not, without our prior written consent, **export** electricity generated on your **sites** into the **network**. Any such consent will be subject to any conditions that we or the **network operator** may require, including conditions relating to any legal or industry requirement.

Load Management

3.10 Under the **network operator agreement**, the **network operator** has the right to use **load management** switches in, over or on your **sites** to interrupt your **electricity supply** without advance notice.

3.11 If you enter into any agreement or arrangement with any third party in relation to using **load management** switches in, over, on, or relating to your **sites** to interrupt your electricity supply, you must ensure that:

- (a) the **network operator** is not already entitled to use **load management** switches in, over or on your **sites** under clause 3.10;
- (b) the third party does not interfere with or damage the **network operator's** or our **load management equipment** and if any damage occurs due to the actions of the third party, you will promptly and at your own cost remove the source of the interference and make good the damage;
- (c) the third party makes the load available to the **network operator** to enable the **network operator** to fulfil its performance obligations as an asset owner under the **code** and the **use of system agreement**; and
- (d) prior to controlling the load, the third party has entered into an agreement with the **network operator** which sets out the protocols for the use of the load, including coordination with the **network operator** of the disconnection and reconnection of load.

Embedded Network Consumers

3.12 If you are an **embedded network consumer**, you acknowledge and agree that the **embedded network owner** (and not the **network operator**) is responsible for the conveyance of electricity via the **embedded network** and that, to the fullest extent permitted by law, the **network operator** has no liability to you of any kind, whether in contract, tort (including negligence) or otherwise, in relation to the **embedded network**.

3.13 If you are an **embedded network consumer**, you acknowledge and agree that, without limiting the acknowledgement and agreement in clause 3.12 above, to the fullest extent permitted by law, including where you are acquiring, or hold yourself out as acquiring, electricity for the purpose of a business, any and all warranties, guarantees or obligations imposed on the **embedded network owner** and/or the **network operator** (if any) to you by the Consumer Guarantees Act 1993 or any other law concerning:

- (a) the services to be provided by the **embedded network operator**; and
- (b) the goods to be provided by the us, are excluded. You acknowledge and agree that you

may only on-sell electricity to an end user, if the agreement between you and that end user includes terms and conditions that exclude all warranties, guarantees and obligations of the kind referred to in this clause 3.13 to the fullest extent permitted by law, including where the end user is acquiring, or holds itself as acquiring, electricity for the purpose of a business.

4 METERING AND TESTING

- 4.1 The quantity of electricity conveyed to you at each **point of supply** will be measured by the **metering installation** provided, installed, owned, maintained and operated by us or our agent, or you or your agent. We will use all reasonable endeavours to read the **metering installation** monthly and remotely, unless we agree otherwise with you.
- 4.2 The **metering installation** will be deemed to be accurate and all measurements taken from the **metering installation** will be binding on you and us unless either you or us dispute the accuracy of the **metering installation** and the **metering installation** is tested in accordance with the **code** pursuant to clause 4.8(b) below.
- 4.3 If a test carried out pursuant to clause 4.8(b) reveals that the **metering installation** does not meet the relevant standards required by the **code** then, as soon as reasonably practicable after a determination is made under the **code**, we will follow the process set out in clause 4.5 to correct any invoices that are found to be incorrect.
- 4.4 You must notify us immediately if you find any defects, evidence of tampering or are aware of any incident of any kind that could affect the accuracy or integrity of any **metering installation** and will, on our request, co-operate with us to prepare a statement of the situation.
- 4.5 If for any reason a **metering installation** is not read at the proper time, we will estimate how much electricity you have used, and invoice you according to that estimate. You must pay all estimated invoices in accordance with clause 5. When the **metering installation** is next read, any differences between our estimate and the actual amount of electricity you have used will be taken into account in the next invoice issued (or such future invoices as may be reasonably practicable).

Responsibility for Metering Installations

- 4.6 The **metering installations** at the **sites** may be owned (or otherwise controlled) by either us or you. The party that owns, contracts for provision of, or controls the **metering installation** is the "meter owner" for that **metering installation** and has the responsibilities of the meter owner under this agreement.
- 4.7 We may choose to remove any or any part of an existing **metering installation** on a **site** and to replace it with our own **equipment**. You may have to pay for any or any part of a **metering installation** (including in relation to **metering installations** that are owned by you) that are changed or installed at your request or as a result of your failure to comply with this **agreement** — as well as the cost of removing **equipment** that is not Adonis Energy's.
- 4.8 In relation to each **metering installation** for which it is the meter owner, the meter owner agrees to:
- (a) comply with the **code** and all other relevant laws in relation to that **metering installation**, including by being, or appointing a third party to be, the **metering equipment provider** under the **code**;
 - (b) arrange for the **metering installation** to be tested in accordance with the **code** if the other party disputes the accuracy of the **metering installation** and, if the **metering installation**

does not meet the requirements of the **code**, ensure compliance with the **code** by fixing or replacing the **metering installation**. If the party who is not the meter owner has disputed the accuracy of the **metering installation** and the test reveals that the **metering installation** meets the requirement of the **code**, then that party will be responsible for the costs of the tests; and

- (c) if you are the meter owner:
- (i) obtain Adonis Energy's consent to the appointment of any person **you** propose to appoint as the **metering equipment provider**
 - (ii) ensure that any communications failure that prevents the **metering equipment provider** or Adonis Energy from remotely reading any **metering installation** for which you are the meter owner is fully repaired within 5 **business days** of receiving notice of the failure from Adonis Energy;
 - (iii) notify Adonis Energy immediately if you change, update or modify that **metering installation** or if there is a change of ownership of any part of the **metering installation** and provide Adonis Energy all information Adonis Energy requires to comply with its obligations under the **code**;
 - (iv) ensure that all **metering installations** on your **sites** are not accessed remotely by anyone other than the **metering equipment provider**, Adonis Energy or Adonis Energy's Half Hour Data Administrator without Adonis Energy's written consent; and
 - (v) be liable to Adonis Energy for any costs incurred by Adonis Energy in connection with the repair, replacement or removal of the **metering installation** if:
 - (aa) you do not comply with sub-clauses 4.8(c)(i) – (iv); or
 - (bb) you fail to rectify any other breach of this clause 4.8 within 10 **business days** of receiving written notice from Adonis Energy.

4.9 If Adonis Energy incurs any fines or fees because of your failure to comply with the obligations placed on you by this clause 4, then you will be liable to Adonis Energy for those fines and fees and any associated costs.

4.10 If Adonis Energy's obligations to the **metering equipment provider** change or **this agreement** does not accurately reflect Adonis Energy's arrangement with the **metering equipment provider**, Adonis Energy may amend **this agreement** to reflect those changes or that arrangement by giving you 30 days' notice.

5 CHARGES AND PAYMENT

Charges and Payment

5.1 Unless otherwise provided in **this agreement**, you will be liable for our **charges** from the **supply start date**.

5.2 We will provide you with a buyer created tax invoice for the export electricity you supply to us in any month. Any buyer created tax invoice rendered by us to you for **export electricity supply charges** will be paid by us to you in the same manner (including without limitation as to the time for payment) as set out in this clause 5 and clauses 1.4 to 1.6 of **this agreement**.

- 5.3 The parties must pay invoices on or before the due date of the invoice.
- 5.4 Subject to clause 5.6 below, without prejudice to any of our other remedies in respect of your default in failing to make payment by the due date, we will charge you a late payment fee as set out in the Adonis Energy service fees schedule (available on our website) on all overdue amounts.
- 5.5 In addition to the **charges** payable by you to us under **this agreement**, you must pay to us:
- (a) any fees, charges, levies (e.g. a dry year levy), taxes (other than income tax) or other such costs imposed by law (including the **code**) on electricity, electricity generation or **line function services** that increases our costs of supplying electricity to you;
 - (b) any costs that we incur in connection with a disconnection or reconnection of your supply requested by you; and
 - (c) **GST**, at the relevant rate.
- 5.6 If either party disputes the accuracy of any invoice they must notify the other party before the due date for payment. The undisputed amount must be paid by the due date and both you and us will resolve the dispute as soon as possible in accordance with clause 16. Upon settlement of the dispute, the appropriate adjustment to payment will be made by payment of the amount of any shortfall plus any applicable late payment fee. Any payment must be made within 5 **business days** of the determination of the adjustment.
- 5.7 If an invoice is found to be incorrect for any reason, we will issue a correcting notice, which will be taken into account in the next invoice issued (or such future invoices as may be reasonably practicable) and subject to clause 5.6, **interest** will be payable on the excess or any applicable late payment fee will be payable on any shortfall, as the case may be. If the correction in your favour exceeds the total otherwise due on any such invoices, we will pay you the excess, together with **interest** from the due date until payment is made.

6 SUPPLY OF ELECTRICITY BY YOU

- 6.1 You may, with our prior written consent, and in accordance with any conditions attached to that consent, export electricity generated on your **sites** into the **network** or the **Transpower network**. We may at any time during the term of **this agreement**:
- (a) Consent to the export of electricity generated on your **sites** into the **network** or the **Transpower network**. Any such consent will be subject to any conditions that we or the **network operator** may require, including conditions relating to:
 - (i) any legal or industry requirements;
 - (ii) the standards and specifications of **your installations**; or
 - (iii) any other aspect of your export of electricity,and such conditions may be amended by us or the **network operator** by notice to you from time to time;
 - (b) refuse to grant consent under paragraph (a) for any reason; and

- (c) suspend or terminate our consent under paragraph (a) by notice to you in writing. On receipt of such notice you shall immediately cease exporting electricity generated on your **sites** into the **network** or the **Transpower network**.

6.2 You warrant that all of your **equipment** used to generate electricity under **this agreement**, (including but not limited to the housing, cabling, and all other electrical fixtures and appliances at the **site** or **point of supply**, as relevant) is and will continue to be in good working order, properly maintained, and capable of operating for the purposes referred to in **this agreement**. You are solely responsible, and we have no liability, for any direct or indirect loss, damage or injury suffered by you or any other person resulting from any breach of this warranty. You agree to indemnify us and the **network operator** for any loss or damage suffered by us or the **network operator** where such loss or damage results from any breach of this warranty or results from you injecting electricity into the **network** or the **Transpower network**. The limits on your liability set out under clauses 9.3 and 9.9 do not apply to this indemnity.

7 PRUDENTIAL REQUIREMENTS

7.1 We may, at any time, require you or the **guarantor** (where applicable) to provide an unconditional guarantee, letter of credit, bond or similar security or combination of securities acceptable to us for any amount we reasonably require to protect us against you failing to make any payment under **this agreement**. The security must be in a form acceptable to us and must be from a bank, or other person acceptable to us; such bank or person is to have a long term credit rating of at least A3 (Moody's Investor Services, Inc), A- (Standard and Poor's Ratings Group) or B+ (AM Best).

7.2 If at any time we believe that it is reasonable for us to require further security of the kind described in clause 7.1 above:

- (a) we may give notice to you or the **guarantor** (where applicable) setting out the grounds for our belief and specifying a reasonable amount for which we require security; and
- (b) you or the **guarantor** (where applicable) must then arrange us to receive, within 30 days after receiving our notice, such additional security acceptable to us for the amount we reasonably require.

7.3 Where we require you or the **guarantor** to provide a bond under clause 7.1, we may hold the bond until **this agreement** has been terminated and you have paid all of your invoices in full and have otherwise complied with all terms of **this agreement**. If we hold the bond for more than 12 months, we will provide you with reasons for this.

7.4 If we refund all or part of your bond to you, we may do so by crediting your next invoice, paying you by direct credit to your nominated bank account or by sending you a cheque. We will not be liable to pay you interest on any bond amount.

8 ACCESS

8.1 Our and the **network operator's** employees, agents, subcontractors and invitees ("**our authorised personnel**") and other **code parties** employees, agents, subcontractors and invitees may need access to your **sites** for one of the reasons set out in clauses 8.2 and 8.3 below. Except in routine situations (such as, for example, reading or inspecting a **metering installation** located on the outside of a building), we, or **our authorised personnel**, will wherever practicable give you reasonable notice of the exercise of rights of access by our **authorised personnel**, and **our authorised personnel** will tell you the purpose of the visit. **Our authorised personnel** will cause as little inconvenience to you as is practicable in carrying out any work. **Our authorised personnel** will also observe, at all times, good New Zealand electricity

industry practice, as well as any reasonable requirements you bring to the attention of **our authorised personnel**. However, we or **our authorised personnel** cannot be liable for any failure to observe good New Zealand electricity industry practice where that failure is a direct result of your actions or the actions of any third party.

8.2 You will give **our authorised personnel** and a **code party's** employees, agents, subcontractors and invitees safe and unobstructed access to your **sites** and to any **metering installation** or to any **equipment** owned, leased, or controlled by us, **our authorised personnel**, the **network operator** or the **code party**, which is located on your **sites** (including inside any building on a **site** in which **metering installations** or other **equipment** is located) to:

- (a) connect, suspend or disconnect your electricity supply;
- (b) read, install, test, inspect, maintain, repair, replace, operate, upgrade or remove the **metering installation** or the **equipment**;
- (c) ensure that trees, vegetation and other obstacles are clear of any lines or other **equipment** associated with your electricity supply. We or the **network operator** may charge you for the cost of clearing such trees, vegetation or obstacles if you have failed to do so;
- (d) investigate or repair any damage to or interference with, or any suspected damage to or interference with, any **metering installation** or other **equipment** owned, leased or controlled by us, the **network operator** or a **code party**;
- (e) ensure that you comply with your obligations under clauses 3.4, 3.5 and 3.9;
- (f) enable the **code party** to exercise rights or obligations under the **code** or any other law;
- (g) enable the **network operator** and the **code party** to gain access to and remove any of its **equipment** following the termination of this agreement and for the period ending 6 months after the date that termination takes effect; and
- (h) for any other purpose related to **this agreement**.

8.3 In addition to the rights of access described in clause 8.2, you will give **our authorised personnel** safe and unobstructed access to your **sites**, any **metering installation** or to any **equipment** owned or leased by us, **our authorised personnel** or the **network operator** which is located on your **sites** (including inside any building on a **site** in which **metering installations** or other **equipment** is located) at any time to:

- (a) restore electricity during an interruption in your area;
- (b) ensure safety; or
- (c) protect persons or property.

In these circumstances we or the **network operator** may not provide you with advance notice that **our authorised personnel** require access to your **sites**.

8.4 The rights of access set out in this clause 8 are in addition to any rights of access which we, the **network operator**, **our authorised personnel** or a **code party** may have under any law or any other agreement with you.

- 8.5 If you fail to grant access, in accordance with **this agreement**, to your **sites** (including the **metering installation** or other **equipment** on your **sites**), your electricity supply may be disconnected immediately. We will not be liable for any damages incurred by you or any third party as a result of any such disconnection. You will reimburse us all costs of disconnection and of any reconnection.

9 LIABILITY

General

- 9.1 Subject to clauses 9.4, 9.5 and 9.11, neither you nor us will be liable to the other, for any loss, injury or damage resulting from:

- (a) any failure to supply electricity or any defect in the quality of the electricity supplied; or
- (b) breach of **this agreement**,

unless, such failure, defect or breach arose from the negligence, or intentional action or inaction, of that party or, in relation to you, any third party provider of your **metering installations**.

- 9.2 None of Adonis Energy, the **network operator** or a **code party** will in any circumstances be liable to you for:

- (a) momentary fluctuations in the voltage or frequency of electricity conveyed; or
- (b) any failure to convey electricity caused by your, or any other person's, failure to observe or comply with any **network connection standards**; or
- (c) any failure to convey electricity caused by no, or reduced, injection or electricity supply into the **network** or an interruption in the conveyance of electricity in the **network**; or
- (d) any failure to convey electricity caused by any defect or abnormal conditions at any of your **sites**; or
- (e) any delays, faults, or any other problem whatsoever in relation to the electricity supply to you resulting from any incorrect or inadequate information provided to us by you; or
- (f) any failure to convey electricity where the **network operator** considers it reasonably necessary to interrupt the electricity supply to any **point of supply** for any of the reasons set out in clause 2.10, including **constrained supply situations**;
- (g) any failure to convey electricity or effect its conveyance arising from your acts and omissions or the acts or omissions of a third party; or
- (h) any loss resulting from the liability of you to any other person.

- 9.3 None of Adonis Energy, the **network operator**, or any **code party**, nor their respective officers, employees or agents will be liable to you, and neither you nor any of your officers, employees or agents, will be liable to us for:

- (a) any loss of profit or business or any similar claims; or
- (b) any indirect or consequential loss; or
- (c) any loss resulting from loss or corruption of, or damage to, any computer or electronically stored data, software or hardware.

- 9.4 You will indemnify us, any **code party** and the **network operator**, against:
- (a) any costs, liability, loss or damage suffered by us, any **code party** or the **network operator** as a result of:
 - (i) your disconnection from the **network** as a result of your breach of **this agreement** (provided that we, the **code party**, and the **network operator** have acted in accordance with good New Zealand electricity industry practice in relation to the disconnection unless the failure to act in accordance with such practice was a result of your actions or the actions of a third person); or
 - (ii) incorrect or inadequate information provided to us by you; and
 - (b) any damage to any of our, the **code party's**, the **network operator's**, or any other third party's **equipment** caused by your negligence or intentional action or inaction.
- 9.5 If you suffer loss or damage because of the action or inaction of the **network operator**, a **code party**, or **Transpower**, you can only claim from us a proportion of what we recover from the **network operator**, **code party**, or **Transpower**. If the amount we recover from the **network operator** relates to loss suffered by more than one of our customers, we will distribute the amount recovered in proportion to each affected customer's relative loss.
- 9.6 To the extent permitted by law, the **network operator** will have no liability to you in contract, tort (including negligence) or otherwise in respect of the supply of electricity to you under this agreement. If you are an **embedded network consumer**, you acknowledge and agree that the **network operator** will have no liability to you in contract, tort (including negligence) or otherwise in relation to the supply of electricity to you under **this agreement**.
- 9.7 You indemnify the **network operator** against any direct loss or damage caused or contributed to by your fraud, dishonesty or wilful breach of this agreement or by it or its officers, employees, agents or invitees arising out of, or in connection with, the services provided under the **use of systems agreement**. If you are an **embedded network consumer**, you will indemnify the **network operator** against all direct loss or damage caused or contributed to by your fraud, dishonesty or wilful breach of any terms of **this agreement** in relation to the **embedded network**.
- 9.8 You acknowledge and agree that that the acknowledgement and agreements referred to in clauses 9.2 to 9.4, 9.6, 9.7 and 9.11 are given by you for the benefit of any **code party**, including the **network operator** (as applicable) and are enforceable by any **code party**, including the **network operator** (as applicable), in accordance with section 12 of the Contract and Commercial Law Act 2017.

Cap on Liability

- 9.9 Subject to clause 9.10, the maximum liability that either of us may have to the other for loss or damage arising under **this agreement** will be, for all events occurring in any 12 month period, no more than the greater of:
- (a) \$10,000; or
 - (b) 20% of the annual **electricity supply charges** and **metering services charges** payable by you under **this agreement**.
- 9.10 The cap specified in clause 9.9 will not apply to your liability under clauses 9.4(b) and 9.7.

Application of the Consumer Guarantees Act 1993

- 9.11 You agree that to the extent that **electricity supply services, metering services, line function services** and other services that are supplied to you under **this agreement** are for the purposes of a business, the Consumer Guarantees Act 1993 does not apply. All warranties, guarantees and obligations imposed on the **network operator** or a **code party** to you concerning the services provided by the **network operator** or a **code party** by that Act or any other law are excluded from this agreement to the fullest extent permitted by law. If the Consumer Guarantees Act applies to this agreement, nothing in this agreement limits your rights under that Act.
- 9.12 If you on-sell electricity to an end-user, you agree to include in any agreement between you and an end-user, exclusions on the same terms as clause 9.11 to the fullest extent permitted by law.

General Exclusion

- 9.13 All other liability, including any liability in tort or at law is hereby excluded to the maximum extent permitted by law.

10 TERMINATION

Use of System Agreement

- 10.1 If our agreement with any **network operator** is terminated, then **this agreement** will automatically terminate in relation to any **points of supply** supplied through that **network operator's network**.

General Rights to Terminate

- 10.2 If either you or we ("**defaulting party**") fail to perform any of the covenants or obligations imposed upon it by **this agreement**, the other one of us not in default ("**notifying party**") may at its option terminate **this agreement** by:
- (a) Serving on the **defaulting party** a written notice stating specifically the cause for terminating **this agreement** and its intention to do so. If we are the party issuing the notice, we will remind you that termination of **this agreement** will result in your disconnection.
 - (b) The **defaulting party** will have 10 **business days** after the service of the notice in which to remedy or remove the cause or causes stated in the notice for terminating **this agreement**.
 - (c) If within that 10 **business day** period the **defaulting party** removes or remedies the cause or causes and fully indemnifies the **notifying party** for any and all consequences of such breach, the notice of default will be deemed to be withdrawn and **this agreement** will continue in full force and effect.
 - (d) If the **defaulting party** does not so remedy and remove the cause or causes or does not indemnify the **notifying party** for any and all consequences of such breach within the 10 **business day** period (including the payment of **default interest** on any overdue amounts), the **notifying party** may give 24 hours notice of termination and disconnection to the defaulting party and **this agreement** will terminate on the day of expiry of the notice.

Upon termination in accordance with this clause we will disconnect your electricity supply.

If you are in default under **this agreement** because you have not paid our **charges**, we will only terminate **this agreement** and disconnect you if the **charges** you did not pay are **electricity supply charges, metering services charges or line function services charges**.

- 10.3 You or we may terminate **this agreement** immediately by giving notice in writing to the other parties, if the other:
- (a) has a receiver, manager (including statutory manager) or similar person appointed in respect of the whole or any substantial part of its property or assets or security over any of its assets is exercised or becomes exercisable;
 - (b) passes a resolution, or any proceedings are commenced, for the liquidation of that party;
 - (c) makes an assignment for the benefit of, or enters into or makes any agreement or composition with its creditors; or
 - (d) proposes a re-organisation, amalgamation, moratorium or other form of administration in relation to its creditors or any debts or obligations; or
 - (e) (if a company) is removed from the Register of Companies otherwise than as a consequence of an amalgamation under Part XIII of the Companies Act 1993.
- 10.4 We may also terminate **this agreement** immediately by giving notice in writing to you if:
- (a) you undergo any material change in direct or indirect ownership, management or control; or
 - (b) any of the events or circumstances listed in clause 10.3(a) – (e) above occur in relation to the **guarantor**.
- 10.5 Any termination of **this agreement** will be without prejudice to our right to collect any amounts then due to us for electricity supplied prior to the time of termination and, where clause 9 applies, without waiver of any remedy to which the party not in default may be entitled for breach.
- 10.6 On the expiry, or earlier termination, of **this agreement**, we or our **authorised personnel** may enter each of your **sites** and disconnect each **point of supply**.

11 FORCE MAJEURE

- 11.1 Subject to clause 11.3 neither we nor you will be liable to the other for any act, omission or circumstance occasioned by or in consequence of any **force majeure event**.
- 11.2 Any **force majeure event** will be the subject of a meeting between our representatives, called by either us or you as soon as practicable after the happening or event.
- 11.3 Any **force majeure event** affecting performance by either us or you under **this agreement** will not relieve the affected party of liability in the event of its negligence or in the event of its failure to use reasonable endeavours to remedy the situation, nor will it relieve you from your obligations to make payments of amounts due to us.
- 11.4 If a **force majeure event** occurs, we will endeavour to return your electricity supply to normal as soon as practicable.

12 NOTICES

- 12.1 If any party wishes to give to or serve on any other party any notice, claim, demand or other communication (a "**notice**") under or in connection with **this agreement**, the notice will be sufficiently given or served (but without prejudice to any other mode of service) if in writing and addressed and posted, delivered, or sent by facsimile to the address of that party as stated in Part 1 of **this agreement**.

13 EXCHANGE OF INFORMATION AND CONFIDENTIALITY

- 13.1 Each of us agrees to co-operate in the full exchange of such planning and operating information as may be reasonably necessary for the timely and efficient performance of the obligations or the exercise of rights under **this agreement**.
- 13.2 We acknowledge that the information referred to in clause 13.1 may be information which arises between us and the **network operator** and that, subject to any confidentiality obligations between us and the **network operator**, we will notify you of any circumstances which we perceive are likely to affect your electricity supply. To this end, we will use our reasonable endeavours to obtain, from the **network operator**, particulars and details of any such matters which may affect you.
- 13.3 All information supplied by any party ("**discloser**") to the other ("**recipient**") under **this agreement** is confidential and will not be divulged in any way to any third party without the prior written approval of the discloser, provided that the recipient may, without such approval, disclose such matters or information:
- (a) to its directors, officers, employees and professional advisers and the **expert** on a need to know basis;
 - (b) if and to the extent required pursuant to any necessarily applicable legislation (e.g. the Official Information Act 1982) or other legal requirement, or pursuant to the **code**, or the rules of a recognised stock exchange or similar trading market applicable to the recipient;
 - (c) to a bona fide purchaser of the assets or interests of the recipient, if reasonably required by the purchaser to do so, provided that the purchaser has signed an appropriate confidentiality undertaking; or
 - (d) to the extent that the information has become generally available to the public other than as a result of unauthorised disclosure by the recipient.
- 13.4 In any case in which the recipient discloses any matters or information referred to in sub-clause 13.3(d), the recipient will notify the discloser of the information which has been disclosed.

14 ASSIGNMENT

- 14.1 Either we or you may assign any of our respective rights or obligations under **this agreement** with prior written consent of the other party, consent not to be unreasonably or arbitrarily withheld in the case of a reputable, responsible and solvent assignee able to fulfil all of the assignor's obligations under **this agreement**. In the event of any such assignment, the assignor will not be relieved of its obligations under **this agreement** and it will be a precondition to any such assignment that the assignee will enter into a deed of covenant agreeing to be bound by the provisions of **this agreement**.
- 14.2 In addition to the rights to assign under clause 14.1 we may assign any of our rights or obligations under **this agreement** to another electricity retailer.

14.3 If we commit an event of default as referred to in clause 11.15B of the **code**, you agree that the Electricity Authority may transfer all of our rights and obligations under **this agreement** to another electricity retailer. If that happens the terms of **this agreement** may be amended to the standard terms that the other retailer would have offered you immediately before the event of default or to such other terms that the other retailer and the Electricity Authority agree. In addition the terms of **this agreement** may be amended to include a minimum term in respect of which you must pay a cancellation fee if you cancel **this agreement** before the expiry of that term. You also agree that in the event of such a default we may provide information about you to the Electricity Authority and the Electricity Authority may provide that information to another retailer. Clause 14.2 and this clause 14.3 are for the benefit of the Electricity Authority for the purposes of the Contract and Commercial Law Act 2017 and may not be amended without the consent of the Electricity Authority.

15 MISCELLANEOUS

Waiver

15.1 No right under **this agreement** will be deemed to be waived except by notice in writing signed by the waiving party. A written waiver by any party will not prejudice its rights in respect of any subsequent breach of **this agreement** by the other party. Subject to the provisions of this clause, any failure by any party to enforce any clause of **this agreement**, or any forbearance, delay or indulgence granted by any party to any other party will not be construed as a waiver of that party's rights under **this agreement**.

Survival

15.2 Each provision of **this agreement** survives the termination of **this agreement** to the extent unfulfilled, and remains enforceable and does not merge on performance of another provision.

Compliance

15.3 Each party agrees to comply fully with all laws, including the **code**, which relate to the electricity supply to each of your **sites**.

Privity

15.4 Any provision in **this agreement** expressed to be for the benefit of a **network operator** may be enforced by that **network operator** pursuant to the Contract and Commercial Law Act 2017, but otherwise the parties do not intend to create any rights or benefits enforceable by any third party.

Change in circumstances

15.5 If any regulatory body, agency or court of law determines that **this agreement**, its operation or effect is unjust, unreasonable, unlawful or not in the public interest, each of us will be relieved of our respective obligations only to the extent necessary to eliminate such determination. We will then promptly attempt to renegotiate the relevant terms and conditions of **this agreement** so as to restore the original balance of benefits and obligations.

Entire agreement

15.6 The provisions of **this agreement**, together with any credit terms agreed by us, constitute the entire agreement between us and you and supersede all previous written agreements and communications, whether oral or written, between us and you.

16 COMPLAINTS AND DISPUTE RESOLUTION

- 16.1 If you have a complaint or wish to give us feedback on any aspect of our service, you are invited to contact us in the first instance using the contact details in the offer and forming part of this agreement.
- 16.2 If it is more appropriate that your complaint is managed by the **network operator** rather than us, we will refer your complaint to the **network operator** (unless we have agreed otherwise with the **network operator**). It will then be the responsibility of the **network operator** to address and resolve your complaint. We will tell you in writing if we refer the complaint, and will give you the name and contact details of the **network operator**.
- 16.3 If the complaint relates to Adonis Energy, usually contacting Adonis Energy will be enough to resolve your complaint. If your complaint cannot be resolved by contacting the Adonis Energy contact person in **this agreement**, that person will pass the complaint to Adonis Energy's free in-house complaint resolution process where a member of Adonis Energy's Customer Resolution Team will take responsibility for working with you to a fair resolution. That team will acknowledge your complaint in writing within two **business days** (unless the complaint is oral and you agree to an oral acknowledgement) and provide an initial response to your complaint as soon as possible taking account of the urgency of your complaint and in any event within seven **business days** from the day you made the complaint. They will:
- (a) investigate your problem or complaint;
 - (b) liaise with the relevant people within Adonis Energy or third party companies to resolve your issue;
 - (c) keep you up to date on progress; and
 - (d) provide you with a single point of contact if you have further queries or concerns.
- 16.4 Adonis Energy is part of the Energy Complaints Scheme under the Electricity Industry Act 2010. The scheme is operated by Utilities Disputes Limited (Utilities Disputes), who offer a free and independent service. You may refer a complaint to Utilities Disputes. Further information regarding the Energy Complaints Scheme and when you can refer your complaint to Utilities Disputes is available from their website (www.utilitiesdisputes.co.nz), by phoning them on 0800 22 33 40 or writing to them at PO Box 5875, Lambton Quay, Wellington 6145.
- 16.5 If you have a complaint, dispute or disagreement with Adonis Energy that cannot be considered by Utilities Disputes, or that Utilities Disputes decides not to consider, or that falls outside the jurisdictional limit of Utilities Disputes, or that you prefer not to submit to Utilities Disputes, or if Adonis Energy has its own dispute or disagreement with you that you have not referred to Utilities Disputes and do not refer to Utilities Disputes, or that cannot be considered by Utilities Disputes, or that Utilities Disputes decides not to consider, or that falls outside the jurisdictional limit of Utilities Disputes, then it shall be resolved according to the dispute resolution procedure set out below:
- (a) Both parties will mediate any dispute in terms of the LEADR (New Zealand) Incorporated standard mediation agreement in force at the time the dispute is notified in writing by one party to the other;

- (b) The mediation will be conducted by a mediator and at a fee to be agreed by the parties. Failing agreement, the mediator will be selected and its fee determined by the chair of LEADR (New Zealand) Incorporated;

If the parties are unable to resolve the dispute by mediation within 1 month of the written notice given under clause 16.5(a) the matter will be referred to the arbitration in Wellington of a single arbitrator agreed by the parties. If the parties cannot agree on an arbitrator then the reference to arbitration will be to single arbitrator appointed for the parties, at either party's request, by the President of the New Zealand Law Society. Any such reference to arbitration under this clause will be a submission to arbitration within the meaning of the Arbitration Act 1996.

- 16.6 Pending resolution of any dispute, the parties will continue to perform their respective obligations pursuant to the provisions of **this agreement**.
- 16.7 Nothing in clause 16.5 prevents any party from taking immediate steps to seek equitable relief before an appropriate Court.

17 ADDITION AND DELETION OF SITES

- 17.1 You may, at any time, request the deletion of one or more **sites** (each a "**deleted site**") from **this agreement** by giving us at least 30 days prior written notice if:

- (a) you cease to own or lease that **site**; and/or
- (b) the **site** is de-energised for any reason.

- 17.2 You shall remain liable for all charges incurred in relation to each **deleted site** up to the effective date of its deletion and in relation to any obligation under **this agreement** that, expressly or impliedly, survives the deletion of that **deleted site**. You shall also be liable for our costs for de-energising the **site**, where applicable.

- 17.3 Where a **deleted site** is removed from **this agreement** (as applicable), **this agreement** shall be amended to remove the relevant **site(s)** from **this agreement** (as applicable) and amend any other terms as agreed by the parties. Any such amendment will be made in writing. **Deleted sites** shall cease to be covered by **this agreement** from the date stated in the applicable amendment.

18 APPLICATION OF THIS AGREEMENT TO DISTRIBUTED UNMETERED LOAD

- 18.1 Where applicable, you must keep an up to date database of all your distributed unmetered load, that records the ICP number, location, load type description, wattage capacity and ballast loss capacity (in kW) of each item of load. You will provide to us, on request, a copy of records from your database and all information and assistance necessary to satisfy us that you are meeting your obligations under this clause. You must record all additions, changes and deletions in your database identifying the before and after values, the date and time of such addition, change or deletion, and the person making the addition, change or deletion. Your database must track the time of additions, changes and deletions in a way that enables the total load in kW to be retrospectively derived for any day.
- 18.2 On or before the first **business day** of each month, you will calculate and email to electricity@adonisenergy.net (or such other address as nominated by us from time to time) the **total wattage capacity** (including lamp, ballast and any other control equipment) for each distributed unmetered load ICP listed in the Site Information in the offer letter forming part of **this agreement** in the format specified by us.

18.3 You will be responsible for notifying us, and the network operator (if required by them) of any changes in the total wattage capacity of your distributed unmetered load ICPs.

18.4 You will be responsible for all costs associated with complying with the requirements set out in clauses 18.1 to 18.3 above.

Compliance with the requirements of the code

18.5 The distributed unmetered load database maintained by you must comply at all times with the requirements of the **code**. Where you do not comply with the requirements set out in clauses 18.1 to 18.4 of **this agreement** to our satisfaction, you will be in breach of **this agreement** and we may terminate **this agreement** in accordance with clause 10 of **this agreement**.

18.6 We may, during normal **business hours** and on one weeks' written notice to you, audit your distributed unmetered load database or have a third party do so. You are to provide all assistance and records that are requested by us or our auditor in relation to any such audit in a reasonable timeframe. We reserve the right to pass on the cost of any such audit at our discretion.

18.7 Where your database fails to meet the requirements of **this agreement** and the **code**, you shall:

- (a) within one calendar month, correct any issues of non-compliance, including by updating any relevant processes and procedures, raised by us or the Electricity Authority in respect of your database; and
- (b) pay any fees, charges, levies or other such costs imposed on us for a breach of the **code** due to an audit of, error within or non-compliance in respect of the distributed unmetered load database directly or indirectly resulting from incorrect or outdated information supplied to us by you.

18.8 On demand by us, you shall pay a reconciliation fee.

19 INTERPRETATION

19.1 In this agreement, unless the context otherwise requires:

"**approved test house**" means an organisation that has been approved in accordance with the **code** to certify **metering installations** of that meter class;

"**business day**" means any day of the week other than a Saturday, Sunday, or a **national holiday**;

"**business hours**" means 8am to 5pm on **business days**;

"**charges**" means **electricity supply charges, export electricity supply charges, metering services charges, line function services charges** and any other charges, levies, fees, taxes and costs applicable under **this agreement** or agreed by you and us;

"**code**" means the Electricity Industry Participation Code 2010, as amended from time to time;

"**code party**" means a person other than Adonis Energy and you who has rights or obligations under the **code** relating to a **metering installation** on a **site** (including a **metering equipment provider**).

"**commencement date**" means, in relation to each **site**, the date set out in Part 1 of **this agreement**;

"**constrained supply situation**" includes situations such as local or national electricity shortages (due to low hydroelectric storage, fuel shortages, generating plant outages, transmission constraints or otherwise);

"**consumer**" has the meaning given to that term in Part 1 of the **code**;

"**default interest rate**" means the Westpac Banking Corporation's 90-day bank bill bid rate on the relevant date or next **business day** plus 5% per annum;

"**distributed unmetered load**" means unmetered load with a single profile, with a single customer, across more than one point of connection (commonly including streetlights);

"**EG**" means an embedded generation ICP connection;

"**electricity supply services**" means the supply of electricity to your **points of supply**;

"**embedded network**" has the meaning given to that term in Part 1 of the code;

"**embedded network consumer**" means a **consumer** with **equipment** connected to an **embedded network**;

"**embedded generator**" has the meaning given to that term in Part 1 of the code;

"**embedded network owner**" means the owner or operator of an **embedded network**;

"**EN**" means an embedded network ICP connection;

"**equipment**" includes, as the circumstances require, all **metering installations**, meters, switches, relays, fuses, wiring and other equipment that uses or is used (or intended or designed to be used) in or in connection with the generation, conversion, transformation, conveyance or use of electricity. A reference to the lines company's equipment includes a reference to equipment owned by the lines company's agent or any other third party the lines company has contracted with for the use of that equipment;

"**expiry date**" means, in relation to each **site**, the date set out in Part 1 of **this agreement**;

"**force majeure event**" means any event or circumstances beyond the control of either of us, and includes any act of God, force of nature (including weather events), act of war, terrorism or sabotage, earthquake, fire, lightning or other natural catastrophe, strikes, lockouts, civil disturbances, a partial or entire failure by the **Transpower network** or the local **network** (owned by the **network operator**), explosion, breakage or accident to any **equipment** or a facility owned by either of us (being **equipment** or a facility necessary to supply, deliver or take electricity under **this agreement**);

"**GD**" means a grid direct ICP connection;

"**GN**" means a local network ICP connection;

"**GST**" means goods and services tax as defined by the Goods and Services Tax Act 1985;

"**grid exit point**" means any point of connection between **Transpower** and a local network where electricity may flow out of one network and into another;

"**guarantor**" means the guarantor of your obligations listed in Part 1 of **this agreement** (if any);

"**half hour**" means any period of 30 consecutive minutes commencing substantially at any hour or substantially at any 30 minutes past the hour;

"**interest**" means the Westpac Banking Corporation's 90-day bank bill bid rate on the relevant date or next **business day** plus 2% per annum accruing daily and compounding monthly;

"**kWh**" means kilowatt hour;

"**line function services**" means the provision and maintenance of works for the conveyance of electricity and the operation of such works, including the control of voltage and assumption of responsibility for losses of electricity;

"**load management**" means the control of electricity flowing to your **sites** by way of load management switches in, over, on or relating to your **sites**;

"**local distribution losses**" means the difference between the electricity injected at the **grid exit point** and the electricity delivered to the **points of supply** supplied by that **grid exit point**;

"**metering equipment provider**" has the meaning given to that term in the Electricity Industry Act 2010.

"**metering installation**" means meters, including the cell phone and modem, load and meter control devices (but not their control signals or means of generation), data loggers, test blocks, measuring transformers, error compensation processes, fittings, **equipment**, wiring and installations used for the measurement and storage or metering information that is used for the purposes of the **code**, and all related **equipment** and wiring, including current transformers and voltage transformers;

"**metering point**" means that point on each of your **sites** at which electricity is metered;

"**metering services**" includes reading and reconciling the readings from the meters on your **sites** and, where we provide you with meters, may include provision, installation, and certification of the **metering installations**;

"**month**" means calendar month;

"**national holidays**" means the days on which Good Friday, Easter Monday, Anzac Day, Queen's Birthday, Labour Day, Christmas Day, Boxing Day, New Year's Day, the day after New Year's Day and Waitangi Day are observed for statutory holiday purposes;

"**network**" means the plant, lines and other facilities to which the relevant **point of supply** is connected;

"**network connection standards**" means any network connection standards, electricity distribution code or other similar document issued by the **network operator** from time to time;

"**network operator**" means the person operating the plant, lines and other facilities to which the relevant **point of supply** is connected;

"**point of supply**" in relation to each of your **sites**, means the point or points listed in Part 1 of **this agreement** at which fittings, used or intended to be used for the purposes of supplying electricity to those **sites**, enter those **sites**;

"**SB**" means embedded network residual load;

"**site**" means each of your sites listed in Part 1 of **this agreement** for which the contract type is time of use (TOU);

"**spot rate**" means the final charge for the **grid exit point** (as those terms are defined in the **code**) that relates to the relevant **point of supply**;

"**supply start date**" means the date we commence supplying electricity to you, determined in accordance with the Supply Start Date and Term section of this Part 2;

"**this agreement**" means the letter of offer forming part of this agreement and **this agreement** as amended from time to time;

"**total wattage capacity**" means the sum of the wattage capacities of all distributed unmetered load, including streetlights or traffic lights, supplied through an ICP;

"**Transpower**" means Transpower New Zealand Limited;

"**Transpower network**" means the national electricity distribution **network** operated by **Transpower**;

"**use of system agreement**" means the use of system agreement between us and the relevant **network operator** relating to the conveyance of electricity to any of your **sites**;

"**your installations**" means the electrical systems and **equipment** belonging to you.

- 19.2 All references to time in **this agreement** have been expressed in terms of New Zealand standard time or New Zealand daylight time as appropriate, as those terms are described in the Time Act 1974.
- 19.3 Words importing persons include corporations and vice versa.
- 19.4 A reference to any law is to New Zealand law including statutes, regulations, rules, orders, ordinances and by-laws and including as amended or re-enacted.
- 19.5 The headings used in **this agreement** are for ease of reference only and are not to be used in interpreting the provisions.
- 19.6 Unless the context otherwise requires, words denoting the singular number include the plural and vice versa.

