

# **SOUTH AUSTRALIA**

# **MARKET**

# **AGREEMENT**

# **TERMS**

Version 2.2  
24 March 2017

## Table of Contents

<b>PREAMBLE</b> .....	<b>5</b>
<b>1. The Parties</b> .....	<b>5</b>
<b>2. Definitions and Interpretation</b> .....	<b>5</b>
<b>3. What is the Term of the Agreement?</b> .....	<b>6</b>
3.1 When does the Agreement start? .....	6
3.2 Cooling-off .....	6
3.3 When We start selling You electricity .....	7
3.4 Final decisions We may make before We start selling You electricity .....	7
3.5 When does the Agreement end? .....	7
3.6 Vacating Your premises .....	8
3.7 Ongoing liability for consumption .....	8
<b>4. Scope of the Agreement</b> .....	<b>9</b>
4.1 What is covered by the Agreement? .....	9
4.2 Multiple premises .....	9
4.3 What is not covered by the Agreement? .....	9
<b>5. Your General Obligations</b> .....	<b>10</b>
5.1 Full information .....	10
5.2 Updating information .....	10
5.3 Life support equipment.....	10
5.4 Obligations if You are not an owner .....	10
<b>6. Our Liability</b> .....	<b>10</b>
<b>7. Price for Electricity and Other Services</b> .....	<b>11</b>
7.1 What are Our tariffs and charges? .....	11
7.2 Charges to tariffs and charges.....	11
7.3 Changes to tariffs or type of tariff during a Billing Cycle? .....	11
7.4 GST .....	11
<b>8. Billing</b> .....	<b>12</b>
8.1 General.....	12
8.2 Calculating the bill .....	12
8.3 Estimating the electricity usage .....	12
8.4 Your historical billing information .....	13
<b>9. Paying Your Bill</b> .....	<b>13</b>

9.1	What You have to pay .....	13
9.2	Payment options .....	13
9.3	Issue of reminder notices .....	13
9.4	Difficulties in paying.....	13
9.5	Late payment .....	13
9.6	Advance payments.....	14
<b>10.</b>	<b>Meters .....</b>	<b>14</b>
<b>11.</b>	<b>Undercharging and Overcharging.....</b>	<b>14</b>
11.1	Undercharging .....	14
11.2	Overcharging .....	14
11.3	Reviewing Your bill.....	14
<b>12.</b>	<b>Security Deposits.....</b>	<b>15</b>
12.1	Security Deposit.....	15
12.2	Maximum amount of Security Deposits.....	15
12.3	Interest on Security Deposits.....	15
12.4	Use of Security Deposits .....	15
12.5	Return of Security Deposit.....	15
<b>13.</b>	<b>Supply Interruptions .....</b>	<b>16</b>
13.1	Supply interruptions may occur.....	16
13.2	Keeping one another informed about supply interruptions.....	16
<b>14.</b>	<b>Disconnection of Supply.....</b>	<b>16</b>
14.1	When can We arrange for Disconnection?.....	16
14.2	Notice and warning of Disconnection.....	17
14.3	When We must not arrange Disconnection .....	17
<b>15.</b>	<b>Reconnection After Disconnection .....</b>	<b>18</b>
<b>16.</b>	<b>Wrongful and Illegal Use of Electricity .....</b>	<b>18</b>
<b>17.</b>	<b>Notices and Bills .....</b>	<b>18</b>
<b>18.</b>	<b>Privacy Act Notice.....</b>	<b>19</b>
<b>19.</b>	<b>Complaints and Dispute Resolution.....</b>	<b>19</b>
19.1	Complaints.....	19
19.2	Our obligations in handling complaints.....	19
<b>20.</b>	<b>Force Majeure.....</b>	<b>19</b>
20.1	Effect of Force Majeure Event .....	19
20.2	Deemed prompt notice .....	19

20.3	Obligation to overcome or minimise effect of Force Majeure Event .....	20
20.4	Settlement of industrial disputes .....	20
<b>21.</b>	<b>Applicable Law .....</b>	<b>20</b>
21.1	The laws of South Australia govern the Agreement.....	20
<b>22.</b>	<b>Retailer of Last Resort Event.....</b>	<b>20</b>
<b>23.</b>	<b>General .....</b>	<b>20</b>
23.1	Title.....	20
23.2	Our obligations.....	20
23.3	Amending the Agreement.....	20
23.4	Transferring the Agreement.....	20
23.5	Inconsistencies .....	21
23.6	Electronic signature and paperless Agreement.....	21
	<b>Definitions .....</b>	<b>22</b>

## **PREAMBLE**

These terms and conditions form part of Our Agreement with You for the sale of electricity to You at Your premises. The other part of the Agreement is Your Electricity Plan Details.

In addition to this Agreement, the Electricity Laws and other consumer laws also contain rules about the sale of electricity and We will comply with these rules in Our dealings with You. For example, the National Energy Retail Law and the National Energy Retail Rules (Rules) set out specific rights and obligations about electricity marketing, payment methods and arrangements for customers experiencing payment difficulties.

You also have a separate contract with Your Distributor, called a Customer Connection Contract. The Customer Connection Contract deals with the supply of electricity to Your premises and can be found on Your Distributor's website.

More information about this Agreement and other matters is on Our website: [www.energythatcould.com.au](http://www.energythatcould.com.au).

### **1. The Parties**

The Agreement is between:

Tango Energy Pty Ltd ABN 43 155 908 839, referred to in these terms and conditions and elsewhere in the Agreement as "We", "Our" or "Us"; and

You, referred to in these terms and conditions and elsewhere in the Agreement as "You" or "Your".

### **2. Definitions and Interpretation**

- (a) Definitions of terms used in Your Electricity Plan Details and in these terms and conditions are included at the end of these terms and conditions.
- (b) In this Agreement:
  - (i) the singular includes the plural and the plural includes the singular;
  - (ii) other parts of speech and grammatical forms of a word or phrase defined in this Agreement have a corresponding meaning;
  - (iii) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and any authority as well as an individual;
  - (iv) a reference to anything (including any right) includes any part of that thing,
  - (v) a reference to a part, clause, party, annexure, attachment, exhibit or schedule is a reference to a part and clause of, and a party, annexure, attachment, exhibit and schedule to, this Agreement;
  - (vi) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
  - (vii) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
  - (viii) a reference to a party to a document includes that party's successors and permitted assignees;
  - (ix) a promise on the part of 2 or more persons binds them jointly and severally;

- (x) a reference to an agreement other than this Agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding whether or not in writing;
- (xi) headings are for convenience only and do not affect the interpretation of this Agreement;
- (xii) no provision of the Agreement will be construed adversely to a party because that party was responsible for the preparation of the Agreement or that provision; and
- (xiii) where the Agreement applies to multiple premises, see clause (iv) in relation to interpretation of references to Your premises in these terms and conditions.

### **3. What is the Term of the Agreement?**

#### **3.1 When does the Agreement start?**

- (a) The Agreement starts when You accept the offer set out in Your Electricity Plan Details, which You can do by:
  - (i) signing and returning Your Electricity Plan Details to Us, either in person or by post to Our registered office, the address of which is specified in Your Electricity Plan Details;
  - (ii) signing, scanning and emailing Your Electricity Plan Details to Us, at the email address specified in the Electricity Plan Details;
  - (iii) once our facilities for this are in place, verbally accepting that offer over the telephone, or
  - (iv) signing Your Electricity Plan Details with an electronic signature and providing Us with an email address so We can email the signed Agreement to; andbefore any applicable offer expiry date.
- (b) If You accept the offer set out in Your Electricity Plan Details verbally, We must provide You with an Agreement Document within 5 Business Days after Your acceptance. We may provide the Agreement Document:
  - (i) in person;
  - (ii) by post; or
  - (iii) electronically, if You have agreed to the use of electronic communications.

#### **3.2 Cooling-off**

You can cancel the Agreement without penalty at any time before the date which is 10 Business Days after the last of the following days:

- (a) the first Business Day after the day on which the Agreement starts under clause 3.1(a);
- (b) if You verbally accept the offer set out in Your Electricity Plan Details by calling Us in accordance with clause 3.1(a)(iii), the first Business Day after the day on which We give You an Agreement Document in accordance with clause 3.1(b); and
- (c) the day on which You receive Our Disclosure Statement.

You would cancel the Agreement by informing Us of Your intention to cancel within that cooling-off period, which You could do by calling Us on 1800 010 648, or by completing and posting to Us or sending to Us electronically the cancellation notice provided to You with the

other Agreement documents. Both parties would have to comply with the law in respect of that cancellation.

### **3.3 When We start selling You electricity**

Although the Agreement may have started, We do not start selling You electricity at Your premises unless and until:

- (a) You have given Us:
  - (i) acceptable identification;
  - (ii) Your contact details for billing purposes and, if You rent Your premises, contact details for Your landlord or the landlord's agent; and
  - (iii) credit history information, if required by Us;
- (b) Your cooling-off period has expired;
- (c) You have paid any applicable connection or other charge associated with connecting Your premises to the distribution system and Your premises are connected; and
- (d) if We are not already the Retailer responsible to AEMO for Your premises under the law governing the wholesale electricity market, a transfer to Us from the Retailer with that responsibility is completed.

### **3.4 Final decisions We may make before We start selling You electricity**

If at any time before We start selling You electricity We decide We are not satisfied with information You have provided to Us about Your eligibility for the offer set out in Your Electricity Plan Details or about Your creditworthiness, or if the transfer process referred to in clause 3.3(d) is delayed and does not occur on Your next scheduled meter read or the date We schedule a special meter read with You, then We may immediately end the Agreement by giving notice to You. We will not have to provide any compensation to You nor will You to Us.

### **3.5 When does the Agreement end?**

- (a) Unless it ends earlier under clause 3.5(d) or under clauses 3.2, 3.4 or 22, the Agreement will commence from when You accept Your Electricity Plan Details under clause 3.1 and will expire at the end of the set term stated in the Electricity Plan Details or, if no term is stated, will continue indefinitely.
- (b) We will send You a notice no earlier than 40 Business Days and no later than 20 Business Days before the set term, if any, expires, advising You:
  - (i) that the Agreement is due to expire and when it will expire;
  - (ii) what Your options are; and
  - (iii) what tariffs and other terms and conditions will apply after the expiry if You do not exercise any other option.
- (c) If the set term of the Agreement expires without You having taken up any one of the options detailed in Our notice, We will continue to sell You electricity on the terms and conditions, including the tariffs, of our Standing Offer.
- (d) Subject to clause 3.5(f), the Agreement ends:
  - (i) if You give Us a notice stating You wish to end the Agreement, on a date advised by Us, of which We will give You at least 5 but no more than 20 Business Days notice; or

- (ii) if You are no longer a Small Customer:
    - (A) on a date specified by Us, of which We will give You at least 5 but no more than 20 Business Days notice; or
    - (B) if You have not told Us of a change in the use of Your electricity—from the time of the change in use; or
  - (iii) if we both agree to a date to end the Agreement—on the date that is agreed; or
  - (iv) if You start to buy electricity for the premises from Us or a different Retailer under another electricity retail contract—on the date the sale of electricity under the other contract starts; or
  - (v) if a different Customer starts buying electricity for the premises—on the date that Customer starts to buy electricity; or
  - (vi) if the premises are disconnected and You have not met the requirements in the Rules for reconnection—10 Business Days from the date of Disconnection.
- (e) Before the Agreement ends We must use Our best endeavours to arrange for the reading of the meter and send a final bill for the premises to You at either:
- (i) the billing address to which We send Your bills under clause 8.1, which may be an email address; or
  - (ii) any forwarding address stated in Your notice under clause 3.6(a).
- (f) If You do not give Us safe and unhindered access to the premises to conduct a final meter reading (where relevant), this Agreement will not end under clause 3.5(d)(i) or 3.5(d)(ii) until We have issued You a final bill for the premises and You have paid any outstanding amount for the sale of electricity at the premises.
- (g) If the Agreement ends under clause 3.5(d), then, unless the law disallows this, You must pay Us any early termination fee set out in the Electricity Plan Details. This fee would be payable on the Due Date on Your final bill for the premises.
- (h) Rights and obligations accrued before the end of the Agreement continue despite the end of the Agreement, including any obligations to pay amounts to Us.

### **3.6 Vacating Your premises**

- (a) If You are vacating Your premises, You must provide Your forwarding address to Us for Your final bill for the premises in addition to a notice under clause 3.5(d)(i).
- (b) You will continue to be responsible for charges for the premises until Your Agreement ends in accordance with clause 3.5.

### **3.7 Ongoing liability for consumption**

- (a) After the Agreement ends under clause 3.5(d)(i) or 3.5(d)(iii) and for so long as We continue to be charged by AEMO for electricity You consume at Your premises, We will sell that electricity to You on the terms of Our Standing Offer.

Our Standing Offer is published on Our website: [www.energythatcould.com.au](http://www.energythatcould.com.au).

- (b) If the Agreement ends under clause 3.5(d)(i) and You continue to consume electricity at Your premises, then:
  - (i) until such time as You enter into an appropriate arrangement with Us for the payment of charges for the electricity consumed, We will charge You such



amount for the electricity as We consider would have been charged had there been such an arrangement in place; and

- (ii) except as provided under clause 3.7(b)(i), We will sell that electricity to You on the same terms that would have applied had the Agreement not ended (subject to any necessary adaptation).

## **4. Scope of the Agreement**

### **4.1 What is covered by the Agreement?**

- (a) Under the Agreement We agree to sell You electricity at Your premises. We also agree to meet Our other obligations under the Agreement and to comply with the Electricity Laws.
- (b) In return, You agree:
  - (i) to be responsible for charges for electricity supplied to the premises until the Agreement ends under clauses 3.5 or 22 even, subject to clause 3.6, if You vacate the premises earlier; and
  - (ii) to pay the amounts billed by Us under the Agreement; and
  - (iii) to meet Your obligations under the Agreement and the Electricity Laws.

### **4.2 Multiple premises**

- (a) If more than one premises is detailed in Your Electricity Plan Details, then:
  - (i) the Agreement is for the sale of electricity to you at each of those premises;
  - (ii) the Agreement starts at the same time under clause 3.1 for all of those premises, may be cancelled under clause 3.2 only in respect of all of those premises and will expire under clause 3.5(a) at the same time for all of those premises, but the time at which we start selling You electricity under clause 3.3 may differ as between those premises (for example, because the transfers contemplated by clause 3.3(d) may be completed at different times) and the Agreement may end in respect of one or more but not all of those premises under clause 3.5(d) if the relevant circumstances do not relate to all of those premises;
  - (iii) we may prepare consolidated bills for all or some of those premises including where a bill for one or more of those premises is required to be a final bill and for others of those premises is not; and
  - (iv) except as otherwise provided in this clause 4.2(a), each reference in these terms and conditions to Your premises or the premises is to each of the premises detailed in Your Electricity Plan Details separately or to all of them collectively as the context may require.
- (b) If You ask Us to extend the Agreement to additional premises or to transfer the Agreement to Your new premises because You are moving, and the additional or new premises are also in South Australia, We may offer to incorporate those premises into the Agreement on terms that we would detail in the offer.

### **4.3 What is not covered by the Agreement?**

The Agreement does not cover the physical connection of Your premises to the distribution system, including metering equipment and the maintenance of that connection and the supply of electricity to Your premises. This is the role of Your Distributor under Your Customer Connection Contract.

## **5. Your General Obligations**

### **5.1 Full information**

You must give Us any information We reasonably require for the purposes of the Agreement. The information must be correct, and You must not mislead or deceive Us in relation to any information provided to Us.

### **5.2 Updating information**

You must tell Us as soon as possible if information You have provided to Us changes, including if Your billing address changes or if Your use of electricity changes (for example, if You start running a business at the premises).

### **5.3 Life support equipment**

- (a) We maintain a register of premises which are home to persons who require life support equipment.
- (b) If a person living at Your premises requires life support equipment, You must register the premises with Us. To register, You will need to give written confirmation from a registered medical practitioner of the requirement for life support equipment at the premises.
- (c) You must tell Us if the life support equipment is no longer required at the premises.

### **5.4 Obligations if You are not an owner**

If You cannot meet an obligation relating to Your premises under the Agreement because You are not the owner You will not be in breach of the obligation if You take all reasonable steps to ensure that the owner or other person responsible for the premises fulfils the obligation.

## **6. Our Liability**

- (a) The quality and reliability of Your electricity supply is subject to a variety of factors that are beyond Our control as Your Retailer, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the distribution system and the acts of other persons (such as Your Distributor), including at the direction of a Relevant Authority.
- (b) We give You all the warranties, undertakings and guarantees required at law about the condition and suitability of electricity, its quality, fitness for purpose and safety. Our liability for failure to comply with any such warranty, undertaking or guarantee is, to the extent permitted by law, limited (at Our option) to the replacement of the goods, the supply of equivalent goods or the payment of the cost of acquiring equivalent goods; in the case of a service, Our liability is, to the extent permitted by law, limited (at Our option) to the re-supply of the service or the payment of the cost of having the service supplied again.
- (c) Unless We have acted in bad faith or negligently, the Electricity Laws exclude Our liability for any loss or damage You suffer as a result of the total or partial failure to supply electricity to Your premises, which includes any loss or damage You suffer as a result of the defective supply of electricity.
- (d) Nothing in the Agreement varies or excludes any limitation of liability or immunity We have under the law.

## **7. Price for Electricity and Other Services**

### **7.1 What are Our tariffs and charges?**

- (a) Your Electricity Plan Details state the initial tariffs We use to determine Our charges. Your bills will also state the tariffs that apply.
- (b) To the extent permitted by law, We may also charge You:
  - (i) reasonable costs We incur if You do not allow access to Your meter or You request an unscheduled meter reading;
  - (ii) any account establishment or other administration fee set out in Your Electricity Plan Details;
  - (iii) any merchant service fees We incur because of the payment method You use in paying Your bill;
  - (iv) any late payment fee set out in Your Electricity Plan Details and interest on any unpaid late payment at the rate set out in Your Electricity Plan Details;
  - (v) costs imposed on Us if, due to fault on Your part, payments You make to Us are dishonoured or reversed; and
  - (vi) any other charges set out in these terms and conditions or in Your Electricity Plan Details.

### **7.2 Charges to tariffs and charges**

- (a) We may change Your tariffs or impose an additional charge in line with changes in the tariffs and charges payable to Your distributor for the supply of electricity to Your premises.
- (b) We may also change Your tariffs or impose additional charges in an amount which is reasonable having regard to increases in the amount of related costs We incur selling electricity to You or in those costs being greater than We estimated they would be when We prepared Your Electricity Plan Details. These tariff changes and additional charges may cover costs We incur as a result of the introduction of, or a change in, a tax or any other applicable law and changes in the effective cost to Us of the electricity We sell You under any hedging cover or other similar arrangement maintained by Us (e.g., arising from a generator force majeure event or the pass through of additional costs a generator incurs as a result of a change in a tax or any other applicable law). They may also cover market charges, metering charges and network charges but not Your distributor's tariffs and charges, as to which see clause 7.2(a).
- (c) We must give You notice of any changes to Your tariffs and charges as soon as practicable and no later than in Your next bill.

### **7.3 Changes to tariffs or type of tariff during a Billing Cycle?**

If a tariff applying to You changes during a Billing Cycle, We will calculate Your next bill on a proportionate basis.

### **7.4 GST**

- (a) Amounts specified in Your Electricity Plan Details and other amounts payable under the Agreement will be stated as both GST-exclusive and GST-inclusive figures. Clause 7.4(b) applies to amounts stated to exclude GST, but does not apply to amounts stated to include GST.

- (b) Where an amount paid by You under the Agreement is payment for a “taxable supply” as defined for GST purposes, to the extent permitted by law, that payment will be increased so that the cost of the GST payable on the taxable supply is passed on to the recipient of that taxable supply.

## **8. Billing**

### **8.1 General**

We will send a bill to You as soon as possible after the end of each Billing Cycle. We will send the bill:

- (a) to You at:
  - (i) the email address nominated by You, if You have agreed to the use of electronic communications, as set out in Your Electricity Plan Details; or
  - (ii) otherwise, the billing address nominated by You; or
- (b) to a person authorised in writing by You to act on Your behalf at the address specified by You, if You have authorised this.

Our bills will contain the information required by the Rules.

### **8.2 Calculating the bill**

Bills We send to You will be calculated on:

- (a) the amount of electricity consumed at Your premises during the Billing Cycle (using information obtained from reading Your meter or otherwise in accordance with clause 8.3 and the Rules); and
- (b) the amount of fees and charges for any other services provided under the Agreement during the Billing Cycle; and
- (c) the charges payable for services provided by Your Distributor, including connection charges if You have asked for a new connection or connection alteration and have not made alternative arrangements with Your Distributor.

Our bills will also include any other amounts You owe to Us under the Agreement, including (without limitation) any undercharged amount.

### **8.3 Estimating the electricity usage**

- (a) We may estimate the amount of electricity consumed at Your premises if Your meter cannot be read, if Your metering data is not obtained (for example, if access to the meter is not given or the meter breaks down or is faulty), or if You otherwise consent.
- (b) If We estimate the amount of electricity consumed at Your premises to calculate a bill, We must:
  - (i) perform the estimation in accordance with the requirements of the Rules;
  - (ii) clearly state on the bill that it is based on an estimation; and
  - (iii) when Your meter is later read, adjust Your bill for the difference between the estimate and the electricity actually used.
- (c) If the later meter read shows that You have been undercharged or overcharged, clause 11 will apply.

- (d) If the meter has not been read due to Your actions, and You request Us to reissue the estimated bill with a bill based on an actual reading of the meter, We will comply with Your request but may charge You any cost We incur in doing so.

#### **8.4 Your historical billing information**

Upon request, We must give You information about Your billing history for the previous 2 years free of charge. However, We may charge You if We have already given You this information in the previous 12 months, or if You require information going back more than 2 years.

## **9. Paying Your Bill**

### **9.1 What You have to pay**

You must pay to Us the amount shown on each bill by the date for payment (the **Due Date**) on the bill. The Due Date will be no earlier than 13 Business Days from the date on which We issue Your bill.

### **9.2 Payment options**

Unless We make a different agreement with You in accordance with the law, You can pay Your bill by any of the options listed on Your bill.

### **9.3 Issue of reminder notices**

If You have not paid Your bill by the Due Date, We will send You a reminder notice that payment is required. The reminder notice will give You a further due date for payment which will be not less than 6 Business Days after We issue the notice.

### **9.4 Difficulties in paying**

- (a) If You have difficulties paying Your bill, You should contact Us as soon as possible and must do so if You anticipate that payment of Your bill by the Due Date may not be possible. We will provide You with information about payment options.
- (b) If You consume electricity at Your premises as a Residential Customer and have told Us that You have difficulty paying Your bill, We must offer You the option of paying amounts billed for the premises under a payment plan. However, We are not obliged to do so if You have had 2 payment plans cancelled due to non-payment in the previous 12 months or have been convicted of an offence involving the illegal use of electricity in the previous 2 years.
- (c) Additional protections may be available to You under Our Customer Hardship Policy and under the Electricity Laws if You are a Customer experiencing payment difficulties due to hardship. A copy of Our Customer Hardship Policy is available on Our website.

### **9.5 Late payment**

To extent permitted by law, if You have not paid a bill by the Due Date:

- (a) We may require You to pay a late payment fee if such a fee is included in Your Electricity Plan Details, and interest on any unpaid late payment at the rate set out in Your Electricity Plan Details; and
- (b) We may take legal proceedings or other steps against You to recover the overdue amount and Our recovery costs. However, before taking any such steps We will comply with all applicable requirements under the law.

## **9.6 Advance payments**

You may pay Us in advance. However, We do not pay interest on advance payments and will not refund them before the Agreement ends.

## **10. Meters**

- (a) You must allow safe and unhindered access to Your premises for the purposes of reading and maintaining the meters (where relevant).
- (b) We will use Our best endeavours to ensure that meter readings are carried out as frequently as is needed to prepare Your bills, consistently with the Electricity Laws and in any event at least once every 12 months.

## **11. Undercharging and Overcharging**

### **11.1 Undercharging**

- (a) If We have undercharged You, We may recover the undercharged amount from You. If We recover an undercharged amount from You:
  - (i) We will not charge interest on the undercharged amount; and
  - (ii) We will offer You time to pay the undercharged amount in instalments over the same period of time during which You were undercharged (if less than 12 months), or otherwise over 12 months.
- (b) The maximum amount We can recover from You is limited to the amount that has been undercharged in the 9 months immediately before We notify You, unless the undercharge is Your fault, or results from Your unlawful act or omission.

### **11.2 Overcharging**

- (a) Where You have been overcharged by an amount less than the overcharge threshold under the Rules, as applicable from time to time and currently \$50, We must credit that amount to Your next bill after We become aware of the overcharging.
- (b) Where You have been overcharged by an amount equal to or more than the overcharge threshold under the Rules, We must:
  - (i) inform You within 10 Business Days of Our becoming aware of the overcharge; and
  - (ii) repay the overcharge by crediting the relevant amount to Your next bill, or otherwise as You reasonably request.
- (c) If You have stopped buying electricity from Us, We will use Our best endeavours to pay the overcharged amount to You within 10 Business Days.
- (d) No interest is payable on an amount overcharged.

### **11.3 Reviewing Your bill**

- (a) If You disagree with the amount You have been charged, You can ask Us to review Your bill in accordance with Our standard complaints and dispute resolution procedures.
- (b) If Your bill is being reviewed, You are still required to pay:
  - (i) the lesser of:
    - (A) the portion of the bill under review that You do not dispute; and

- (B) an amount equal to the average of Your bills in the last 12 months (excluding the bill in dispute); and
- (ii) any other bills from Us that are due for payment.
- (c) If the bill is:
  - (i) correct, then You must pay the bill, unless You request Us to check the accuracy of the meter, in which case We will test the meter in accordance with the Electricity Laws, and if the meter complies with the Electricity Laws, You must pay any unpaid part of the bill and the cost of the meter test, which cost We may require to be paid in advance where permitted by law; or
  - (ii) incorrect, then We must adjust the bill in accordance with clauses 11.1 and 11.2 and You will not be required to pay the cost of any meter test, and We must reimburse You for any amount paid in advance.
- (d) If, after completion of Our review of a bill, You are not satisfied with Our decision in relation to the review or Our action or proposed action under clause 11.3(c), You may lodge a dispute with the Energy Ombudsman.

## **12. Security Deposits**

### **12.1 Security Deposit**

We may require that You provide a Security Deposit, or replenish an existing Security Deposit which We have used in accordance with this Agreement. The circumstances in which We can do this are governed by the Rules.

### **12.2 Maximum amount of Security Deposits**

The maximum amount we may require for a Security Deposit will be the maximum amount allowed for Security Deposits under standard retail contracts, as determined in accordance with the Rules.

### **12.3 Interest on Security Deposits**

Where You have paid a Security Deposit, We must pay You interest on the Security Deposit at a rate and on terms required by the Rules.

### **12.4 Use of Security Deposits**

- (a) We may use Your Security Deposit, and any interest earned on the Security Deposit, to offset any amount You owe Us:
  - (i) if You fail to pay a bill and as a result We arrange for the Disconnection of Your premises and You do not have the right under clause 15 to request reconnection; or
  - (ii) in relation to a final bill issued under clause 3.5(e).
- (b) If We use Your Security Deposit or any accrued interest to offset amounts owed to Us, We will give You an account of its use within 10 Business Days.

### **12.5 Return of Security Deposit**

- (a) We must return the unused amount of Your Security Deposit and any accrued interest in the following circumstances:
  - (i) You complete 1 years' payment (in the case of Security Deposits provided as a Residential Customer) or 2 years' payment (in the case of Security Deposits provided as a Business Customer) by the Due Dates on Our initial bills; or

- (ii) subject to clause 14.3 You stop purchasing electricity at Your premises under the Agreement.
- (b) If You do not give Us any reasonable instructions, We will credit the amount of the Security Deposit, together with any accrued interest, to Your next bill.

## **13. Supply Interruptions**

### **13.1 Supply interruptions may occur**

You agree that the supply of electricity to Your premises may be interrupted in certain circumstances and that, in those circumstances, You will immediately cease or reduce consuming electricity at Your premises and will comply with directions from Us or Your Distributor. The relevant circumstances are when a supply interruption:

- (a) is allowed or required under the law;
- (b) occurs for reasons beyond Our control;
- (c) occurs because of steps taken by Your Distributor or AEMO;
- (d) occurs because there is insufficient electricity or system capacity to meet the needs of all consumers;
- (e) is required to allow repairs, testing, maintenance or other works; or
- (f) is necessary due to an Emergency or for reasons of public health or safety or the protection of any person or property.

### **13.2 Keeping one another informed about supply interruptions**

- (a) Where reasonably possible and in accordance with the law, We or Your Distributor will give You prior notice of supply interruptions (though not necessarily in writing).
- (b) If You inform Us that supply to Your premises has been interrupted and You want Us to notify Your Distributor, We will do so as soon as practicable.

## **14. Disconnection of Supply**

### **14.1 When can We arrange for Disconnection?**

- (a) Subject to the requirements in the Rules and this clause 14, We may arrange for the Disconnection of Your premises if:
  - (b) You do not pay Your bill by the Due Date and, if You are a Residential Customer, You do not agree to an offer to pay the bill by instalments or, having so agreed, You fail to comply with the instalment arrangement;
  - (c) You fail to comply with the terms of an agreed payment plan;
  - (d) You do not provide a Security Deposit We are entitled to require from You;
  - (e) You do not give access to Your premises to read a meter (where relevant) for 3 consecutive meter reads;
  - (f) There has been illegal or fraudulent use of electricity at Your premises in breach of clause 16;
  - (g) You have requested Us to disconnect Your premises; or
  - (h) We are otherwise entitled or required to do so under the Electricity Laws.



#### 14.2 Notice and warning of Disconnection

Before disconnecting Your premises, We must comply with relevant reminder notice and disconnection notice requirements and other provisions in the Rules. However, We are not required to provide a reminder notice or a disconnection notice prior to Disconnection in certain circumstances (for example, where there has been illegal or fraudulent use of electricity at Your premises, there is an Emergency or health and safety issue or You have requested Us to disconnect the premises).

#### 14.3 When We must not arrange Disconnection

- (a) We must not disconnect Your premises in circumstances where the Rules prohibit this, including:
- (i) if You have made a complaint directly related to the reason for the proposed Disconnection to Us or the Energy Ombudsman, and that complaint remains unresolved;
  - (ii) if the only charge unpaid is not a charge for the sale of electricity;
  - (iii) if You are a Residential Customer or a Customer experiencing hardship, and You are complying with the terms of a payment plan;
  - (iv) if the amount payable is less than the threshold amount determined from time to time in accordance with the Electricity Laws, and You have agreed to pay that amount;
  - (v) if You have formally applied for relief or assistance under a government-funded scheme and a decision on the application has not been made;
  - (vi) if Your premises are registered as premises which are home to a person who requires life support equipment;
  - (vii) during the following protected periods:
    - (A) on a Business Day before 8.00am or after 3.00pm; or
    - (B) on a Friday or the day before a public holiday; or
    - (C) on a weekend or a public holiday; or
    - (D) on the days between 20 December and 31 December (both inclusive) in any year; or
  - (viii) if You are being disconnected under clause 14.1(a), during an Extreme Weather Event.
- (b) Your premises may be disconnected within the protected periods referred to in clause 14.3(a)(vii):
- (i) for reasons of health and safety; or
  - (ii) in an Emergency; or
  - (iii) as directed by a Relevant Authority; or
  - (iv) if You are in breach of that part of Your Customer Connection Contract dealing with interference with electricity equipment; or
  - (v) if Your premises contain a commercial business that only operates within the protected period and where access to the premises is necessary to effect Disconnection; or

- (vi) where the premises are not occupied; or
- (vii) where the Electricity Laws otherwise permit; or
- (viii) at Your request.

## **15. Reconnection After Disconnection**

- (a) We must request Your Distributor to reconnect Your premises if, within 10 Business Days of Your premises being disconnected:
  - (i) You ask Us to arrange for reconnection of Your premises; and
  - (ii) You rectify the matter that led to the Disconnection; and
  - (iii) You pay any reconnection charge (if requested).
  - (iv) If You do not meet the requirements in clause 15(a) within 10 Business Days following Disconnection, the Agreement will terminate automatically in accordance with clause 3.5(d)(vi).

## **16. Wrongful and Illegal Use of Electricity**

You must not, and must take reasonable steps to ensure others do not:

- (a) illegally use electricity supplied to Your premises; or
- (b) interfere or allow interference with any electricity equipment that is at Your premises except as may be permitted by law; or
- (c) use the electricity supplied to Your premises or any electricity equipment in a manner that:
  - (i) unreasonably interferes with the connection or supply of electricity to another Customer; or
  - (ii) causes damage or interference to any third party; or
- (d) allow electricity purchased from Us to be used otherwise than in accordance with the Agreement and the Electricity Laws; or
- (e) tamper with, or permit tampering with, any meters or associated equipment.

## **17. Notices and Bills**

- (a) Notices and bills under the Agreement must be sent in writing, unless the Electricity Laws say otherwise.
- (b) A notice or bill sent under the Agreement is taken to have been received by You or by Us (as relevant):
  - (i) on the date it is handed to the party, or left at Your premises (in Your case) or at Our registered office the address of which is specified in Your Electricity Plan Details (in Our case), or successfully faxed to the party (which occurs when the sender receives a transmission report to that effect);
  - (ii) on the date 3 Business Days after it is posted; or
  - (iii) on the date of transmission (unless the sender receives notice that delivery did not occur or has been delayed) if sent electronically and You have agreed to the use of electronic communications, as set out in Your Electricity Plan Details.
- (c) Our contact details for You to contact Us or send Us a notice are as set out in Our bill to You, or as notified to You from time to time.

## **18. Privacy Act Notice**

- (a) We will comply with all relevant privacy legislation in relation to the collection, use and disclosure of Your Personal Information and Sensitive Information.
- (b) You agree to Us collecting relevant Personal Information and Sensitive Information about You contained in or which becomes available to Us under this Agreement (including information contained in Your Electricity Plan Details), and consent to Us:
  - (i) using that information to carry out Our rights and obligations under the Agreement; and
  - (ii) disclosing that information to other persons who require it for the purposes of facilitating the supply of electricity and relevant services under this Agreement.
- (c) You can find a summary of Our privacy policy on Our website. If You have any questions, You can contact Our privacy officer.

## **19. Complaints and Dispute Resolution**

### **19.1 Complaints**

If You have a complaint relating to the sale of electricity by Us to You, or the Agreement generally, You may lodge a complaint with Us in accordance with Our standard complaints and dispute resolution procedures.

Our standard complaints and dispute resolution procedures are published on Our website: [www.energythatcould.com.au](http://www.energythatcould.com.au).

### **19.2 Our obligations in handling complaints**

If You make a complaint, We must respond to Your complaint in accordance with Our standard complaints and dispute resolution procedures, and inform You:

- (a) of the outcome of Your complaint and the reasons for Our decision; and
- (b) that if You are still not satisfied with Our response, You have a right to refer the complaint to the Energy Ombudsman.

## **20. Force Majeure**

### **20.1 Effect of Force Majeure Event**

If either party to the Agreement cannot meet an obligation under the Agreement because of a Force Majeure Event:

- (a) the obligation, other than an obligation to pay money, is suspended to the extent it is affected by the Force Majeure Event for as long as the Force Majeure Event continues; and
- (b) the affected party must use its best endeavours to give the other party prompt notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which the affected party's obligations are affected and the steps being taken to remove, overcome or minimise those effects.

### **20.2 Deemed prompt notice**

If the effects of a Force Majeure Event are widespread, We will be deemed to have given You prompt notice if We make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the event or otherwise as soon as practicable.

### **20.3 Obligation to overcome or minimise effect of Force Majeure Event**

A party that claims a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that event as soon as practicable.

### **20.4 Settlement of industrial disputes**

Nothing in this clause requires a party to settle an industrial dispute that constitutes a Force Majeure Event in any manner other than the manner preferred by that party.

## **21. Applicable Law**

### **21.1 The laws of South Australia govern the Agreement.**

### **22. Retailer of Last Resort Event**

If We are no longer entitled by law to sell electricity to You due to a Retailer of Last Resort (RoLR) Event occurring in relation to Us:

- (a) the Agreement will automatically terminate and You will not be liable for any termination fee or other charge in respect of the termination; and
- (b) We will provide relevant information (including Your name, billing address and metering identifier) to the entity appointed as the relevant Designated Retailer for the RoLR Event.

## **23. General**

### **23.1 Title**

The title and risk in the electricity sold to You under the Agreement will pass to You when it is supplied to the point of connection between Your premises and the distribution system.

### **23.2 Our obligations**

Some obligations placed on Us under the Agreement may be carried out by another person. If an obligation is placed on Us to do something under this Agreement, then:

- (a) We are taken to have complied with the obligation if another person does it on Our behalf; and
- (b) if the obligation is not complied with, We are still liable to You for the failure to comply with the Agreement.

### **23.3 Amending the Agreement**

- (a) Subject to clause 23.3(b), We must agree any amendment to the Agreement with You in writing.
- (b) To the extent permitted by law, We may amend the Agreement without Your agreement:
  - (i) if We consider it necessary to do so in order to comply with any applicable law or any change in any applicable law; or
  - (ii) if, in Our reasonable opinion, the amendment will confer an additional benefit on You, impose an additional obligation on Us, or be of neutral impact on You, provided We comply with all applicable laws in making the amendment.

### **23.4 Transferring the Agreement**

You cannot transfer the Agreement to another person without Our prior written consent. We will need Your prior written consent to any transfer too, except that We may transfer the Agreement to another person together with any transfer of all or substantially all of Our retail

sales business in the State in which Your premises are located (in which case You appoint Us to be Your attorney to sign any document or do anything necessary to effect the transfer of the Agreement).

**23.5 Inconsistencies**

If these terms and conditions are different to or inconsistent with Your Electricity Plan Details, the latter prevails.

**23.6 Electronic signature and paperless Agreement**

The parties agree:

- (a) to execute this Agreement with an electronic signature where practicable; and
- (b) that by this Agreement being emailed to you at the email address you provided to us, that this Agreement is considered to be exchanged and delivered.

## Definitions

**Agreement** means the agreement You have entered into with Us for the sale of electricity at Your premises as first mentioned in the preamble to these terms and conditions;

**Agreement Document** means a document evidencing the Agreement which includes Your Electricity Plan Details and these terms and conditions.

**AEMO** means Australian Energy Market Operator Limited ABN 94 072 010 327 or any successor body that administers the market for wholesale trading in electricity;

**Billing Cycle** means the regular recurrent period for which You receive a bill from Us, as set out in Your Electricity Plan Details;

**Business Customer** means a Small Customer who is not a Residential Customer;

**Business Day** means a day other than a Saturday, a Sunday or a public holiday in South Australia;

**Customer** means a person who buys or wants to buy electricity from a Retailer;

**Customer Connection Contract** means a contract between You and Your Distributor for the provision of customer connection services;

**Designated Retailer** has the meaning given to that term in the National Energy Retail Law;

**Disclosure Statement** means the statement of information in relation to the Agreement provided in accordance with clause 62 of the Rules;

**Disconnection** means an action to prevent the flow of electricity to the premises, but does not include an interruption;

**Distributor** means the person who operates the system that connects Your premises to the distribution system;

**Due Date** has the meaning given to that term in clause 9.1;

**Electricity Laws** means national and South Australian laws and rules relating to electricity and the legal instruments made under those laws and rules, and includes the National Energy Retail Law and the Rules;

**Electricity Plan Details** means the document setting out the terms of Our offer to sell You electricity;

**Emergency** means an emergency due to the actual or imminent occurrence of an event that in any way endangers or threatens to endanger the safety or health of any person, or normal operation of the distribution system or transmission system, or that destroys or damages, or threatens to destroy or damage, any property;

**Energy Ombudsman** means the Energy and Water Ombudsman SA;

**Extreme Weather Event** has the meaning given to that term in the Rules;

**Force Majeure Event** means an event outside the control of a party;

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

**National Energy Retail Law** means the *National Energy Retail Law (South Australia) Act 2011* (SA);

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

**Relevant Authority** means any person or body who has the power under law to direct Us, including AEMO and State or Federal Police;

**Residential Customer** means a person who purchases electricity principally for personal, household or domestic use at their premises;

**Retailer** means a person that is authorised to sell electricity to Customers;

**RoLR Event** has the meaning given to that term in the National Energy Retail Law;

**Rules** means the National Energy Retail Rules made under the National Energy Retail Law;

**Security Deposit** means an amount of money paid to Us as security against non-payment of a bill in accordance with the Rules;

**Sensitive Information** has the meaning given to that term in the *Privacy Act 1988* (Cth); and

**Small Customer** has the meaning given to that term in the National Energy Retail Law;

**Standing Offer** means Our offer to Small Customers made in accordance with section 22 of the National Energy Retail Law and published by Us on Our website: [www.energythatcould.com.au](http://www.energythatcould.com.au).

## Attachment

### INFORMATION IF YOU WANT TO TERMINATE YOUR AGREEMENT WITH TANGO ENERGY PTY LTD.

You have a right to terminate your agreement during whichever one of the following periods is the longest:

1. The period of 10 business days starting at the start of the first business day after the day on which the agreement was made, or if the agreement was made over the phone, at the start of the first business day after the day on which you were given the agreement document relating to the agreement.
2. The period of 3 months starting at the start of the first day after the day on which the agreement was made, or if the agreement was made over the phone, at the start of the first business day after the day on which you were given the agreement document relating to the agreement, if the agreement is an unsolicited consumer agreement under the Australian Consumer Law (**ACL**) and we have contravened rules under the ACL:
  - (a) limiting the hours we are permitted to negotiate such an agreement with you;
  - (b) requiring us to disclose to you identity information and the purpose for which we have called on you; or
  - (c) requiring us to cease negotiating with you on request.
3. The period of 6 months starting at the start of the first day after the day on which the agreement was made, or if the agreement was made over the phone, at the start of the first business day after the day on which you were given the agreement document relating to the agreement, if the agreement is an unsolicited consumer agreement under the ACL and we have contravened rules under the ACL:
  - (a) requiring us to provide you with information about your right to terminate the agreement;
  - (b) imposing various other requirements on us applicable to unsolicited consumer agreements; or
  - (c) prohibiting us from selling electricity under the agreement during the 10 business day periods starting at the start of the first business day after the day on which the agreement was made (see below).

If the agreement is an unsolicited consumer agreement under the ACL, we must not, and in any event we will not, sell any electricity to you or accept or require payment in connection with any electricity during the 10 business day period starting, if the agreement was not made over the phone, at the start of the first business day after the day on which the agreement was made, or if the agreement was made over the phone, at the start of the first business day after the day on which you were given the agreement document relating to the agreement.

You may terminate the agreement by indicating, in an oral or written notice to us, an intention to terminate the agreement.

Without limitation, you can terminate the agreement by signing and dating the cancellation notice attached to the South Australia Market Agreement Terms and delivering it to us:

- personally or by post, at Level 11, 474 Flinders Street Melbourne VIC 3000; or
- by fax, at 03 8621 6112; or
- by e-mail, at [support@pacifichydro.com.au](mailto:support@pacifichydro.com.au)

Alternatively, you could call us on 1800 010 648.



# CANCELLATION NOTICE

Section 82, Australian Consumer Law

## Right to cancel this agreement within 10 business day cooling –off period

You have a right to cancel this agreement without any reason within 10 business days from and including the day after you signed or received this agreement.

## Extended right to cancel the agreement

If the supplier has not complied with the law in relation to unsolicited consumer agreements you also have a right to cancel this agreement by contacting the supplier, either orally or in writing. **Refer to the information attached to this agreement.** You have up to 6 months to cancel this agreement in certain circumstances.

To cancel this agreement in writing, complete this notice and send it to the supplier. Alternatively write a letter or send an email to the supplier.

SUPPLIER DETAILS	
Name	Tango Energy Pty Ltd
Address	Level 11, 474 Flinders Street Melbourne VIC 3000
Email address	<a href="mailto:support@pacifichydro.com.au">support@pacifichydro.com.au</a>
Fax number	(03) 8621 6112
Details of goods or services supplied under this agreement	
Cost of goods or service	<i>Refer to offer document</i>
Date of agreement	
Transaction number (if any)	N/A

CONSUMER DETAILS	
Name of consumer	
Consumers address	
<b>I WISH TO CANCEL THIS AGREEMENT</b>	
Signed by the consumer	
Date	

**Note:** You must either return to the supplier any goods supplied under this agreement or arrange for the goods to be collected. If the supplier does not collect the goods within 30 days, the goods become your property.