



**CORPORATE CUSTOMER ELECTRICITY
SUPPLY AGREEMENT**

PART 1 - DETAILS OF AGREEMENT

SDFFF SUPPLIER	Meridian Energy Limited (referred to throughout this agreement as "we", "us", "our" and similar expressions).	
	Contact person/Address for Notices	Contract authority (Who can legally bind Meridian)
	Name: Position: Phone: Mobile: Address: Fax:	Name: Position: Phone: Address: Fax:
CUSTOMER	Full legal name: (referred to throughout this agreement as "you", "yours" and similar expressions)	
	Contact person/Address for Notices	Contract authority (Who can legally bind [Insert Customer's full legal name])
	Name: Position: Phone: () Mobile: Address: (postal & physical) Fax: E-mail:	Name: Position: Phone: Mobile: Address: (postal & physical) Fax: E-mail:
SIGNATURES	For [INSERT CUSTOMER'S FULL LEGAL NAME]	For MERIDIAN ENERGY LIMITED
	_____ Signature Name: Position: Date _____	_____ Signature Name: Position: Date _____

<p>PARTS OF THIS AGREEMENT</p>	<p>This agreement comprises three parts: Part 1 - Details of Agreement; Part 2 - Charge Schedule; and Part 3 - Schedule of Terms.</p>
<p>APPLICATION OF THIS AGREEMENT</p>	<p>If you have entered into a direct agreement with the network operator, or Transpower in respect of any of your sites listed in Part 2 of this agreement that agreement will replace all parts of this agreement dealing with your responsibilities to the network operator or Transpower in respect of those sites.</p> <p>If any of your sites listed in Part 2 of this agreement are not metered by time of use meters, you agree that the electricity supply to those sites will be governed by our Standard Terms and Conditions for the Supply of Electricity unless we agree otherwise (for example, in relation to streetlights listed in Part 2 of this agreement).</p>
<p>SERVICES</p>	<p>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 Part 2 of this agreement:</p> <ul style="list-style-type: none"> (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, <p>upon the terms and conditions of this agreement.</p>
<p>SUPPLY START DATE AND TERM</p>	<p>This agreement will commence on [insert commencement date]. Subject to clauses 1.2 and 8 of Part 3 of this agreement, this agreement will remain in full force until [insert expiry date] ("expiry date").</p> <p>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:</p> <ul style="list-style-type: none"> (a) the proposed supply start date for the site set out in Part 2 of this agreement; and (b) any later date that we set as a result of you not complying with your obligations under Part 1 of this agreement.

<p>CHARGES</p>	<p>Our charges</p> <p>The amount payable by you in respect of the services provided under this agreement is the sum of the following applicable charges:</p> <ul style="list-style-type: none"> (a) charges for providing electricity supply services calculated according to the formulae in Part 2 of this agreement ("electricity supply charges"); (b) charges for providing the metering services listed in Part 2 of this agreement ("metering services charges"); (c) the line function services charges described below ("line function services charges"); (d) charges payable by us under the rules that relate to our supply of electricity to you ("market charges"); and (e) any other charges, levies, fees, taxes and costs applicable under this agreement or agreed by you and us.
	<p>Line function services charges</p> <p>The carriage of electricity to your points of supply requires the provision of line function services by Transpower and the network operator. Unless you have entered into an agreement directly with the network operator and/or Transpower, the network operator and Transpower will bill us instead of you for these line function services. Accordingly, you will pay us any costs or charges for which we are liable to the network operator or Transpower that relate to the conveyance of electricity to your nominated points of supply. Where such costs or charges do not relate to specific points of supply you will pay the proportion of those costs and charges that we reasonably impute to you. Any transmission rental rebates or charges for ancillary services, received by us from the network operator, will not be passed on to you, as these are factored into the charges in Part 2 of this agreement.</p>
<p>POINTS OF SUPPLY</p>	<p>Your points of supply are as specified in Part 2 of this agreement.</p>
<p>INVOICING AND PAYMENT</p>	<p>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.</p> <p>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 extended by one business day for every business day that the invoice is delayed.</p> <p>Unless you have disputed the accuracy of an invoice in accordance with the Part 3 of this agreement, payment must be made without deduction or set-off.</p>

<p style="text-align: center;">YOUR OBLIGATIONS PRIOR TO SUPPLY START DATE</p>	<p>Metering requirements</p> <p>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:</p> <ul style="list-style-type: none"> (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: <ul style="list-style-type: none"> (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 rules; (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: <ul style="list-style-type: none"> (aa) the meter's description; (bb) ICP number; (cc) the name of the owner; (dd) the metering category; (ee) whether the metering system is import 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" or "GN". <p>If you fail to comply with the above obligations, we may, in addition to our other rights and remedies under this agreement, delay the supply start date until up to 15 business days after you do so.</p>
<p style="text-align: center;">COMPLIANCE WITH THE RULES</p>	<p>You may have obligations under the rules, particularly if you have a GD ICP connection or are an embedded generator. It is your responsibility to comply with all applicable rules. We are not responsible for your non-compliance.</p>
<p style="text-align: center;">ADDITIONAL CONDITIONS</p>	<p>[Insert additional conditions]</p>

PART 2 - CHARGE SCHEDULE

All charges in the Charge Schedule are stated exclusive of **GST**.

1. ELECTRICITY SUPPLY CHARGES

1.1 General

(a) All **electricity supply charges** are stated in cents per kilowatt hour. They are "energy-only" charges and do not include **local distribution losses, any applicable metering services charges, line function services charges, market charges** or other charges payable under **this agreement**.

(b) For the purposes of clause 1.3 below:

"**BD**" means **business day**; and

"**Non-BD**" means a day other than a **business day**.

1.2 Site information

[insert or delete rows as required]

Site	Address	ICP number	Connection type	Estimated kWh p.a.	Proposed supply start date

1.3 Electricity supply charges by site

[insert name of site]

Please insert energy supply charge formulae and dates for each of the customer's sites under the name of the site.

(A) should be inserted for sites on fixed rates;

(B) should be used for sites on a fixed/floating rate plan;

(C) should be used for a site on 100% spot pricing; and/or

(D) should be used for streetlights

Where the pricing plan for a site changes during the term of the agreement two or more of the above options can be used in combination. Where this is done, please ensure that you insert the correct dates in the spaces provided and that there is no overlap.

For the first pricing option the start date should always be the supply start date. This term should always be in bold because it is a defined term and should be followed by the words "(estimated to be [insert estimated start date])". The end date for a pricing option can either be a set date or, if this is not known, a period of time from the supply start date eg [the date 12 months from the supply start date].

For example (A) may apply from the supply start date (estimated to be 1 May 2004) until the date 12 months from the supply start date and (B) may apply from the date 12 months from the supply start date until 31 April 2005.

A. The electricity supply charges for electrical energy will be calculated as follows:

From the **supply start date** (estimated to be [insert estimated start date]) until the date 12 months from the **supply start date** for each **half hour** you will be charged an **energy supply charge** calculated using the following formula:

$$\text{Energy supply charge} = \text{Fixed rate charge} \times A.$$

Where:

Fixed rate charge is the fixed rate charge for the relevant **half hour** as specified in the table below and

A is the actual amount of electrical energy consumed at the site for the relevant **half hour**.

Fixed rate charges

[insert table of fixed rate charges]

B. From [insert start date] to [insert end date] for each **half hour** you will be charged an **energy supply charge** calculated using the following formula:

$$\text{Energy supply charge} = (\text{Fixed rate charge} \times \text{Fixed rate volume}) + (\text{Spot rate charge} \times \text{spot rate volume}).$$

Where:

Fixed rate charge is the fixed rate charge for the relevant **half hour** as specified in the table below and

Fixed rate volume is the lesser of:

(a) the actual amount of electrical energy consumed at the site for the relevant half hour; and

(b) the relevant **fixed volume** as specified in the table below per **half hour**.

Spot rate charge is the **spot rate** for the relevant **half hour**.

Spot rate volume is calculated using the following formula:

Spot rate volume = A - Fixed rate volume

where:

A is the actual amount of electrical energy consumed at the site for the relevant **half hour**.

Provided that if the **fixed rate volume** is greater than or equal to A, then the **spot rate volume** will be deemed to be zero for the relevant **half hour**.

Fixed rate charges

[insert table of fixed rate charges]

Fixed volumes

[Insert the following clause only if the fixed volume table has not yet been populated.]

The fixed volume for the site for the relevant half hour shall be calculated by determining the volume that is [insert actual fixed volume % specified eg 70%] of the actual usage for the same half hour on the same day and at the same site in the preceding 12 month period. The fixed volume amounts will be represented in a table to be prepared by us as soon as a full 12 months' consumption data, at full site capacity, is available. This table will be added to this agreement by way of an Addendum once agreed between the parties, but will take effect from and continue until the dates specified in clause [B] above.

[insert fixed volume table]

- C. From [insert start date] until [insert end date] for each **half hour** you will be charged an **energy supply charge** calculated at the **spot rate**.
- D. The **electricity supply charges** for electrical energy supplied to your streetlight **sites** will be calculated as follows:

From the [insert start date] until [insert end date] you will be charged an **energy supply charge** for each of the ICPs associated with your streetlight **sites** calculated using the following formula:

$$\text{Energy supply charge} = \text{Fixed rate charge} \times \text{Burn time} \times \text{Total wattage capacity}$$

Where:

Fixed rate charge from:

[insert start date] until [insert end date] is [insert price];

[insert start date] until [insert end date] is [insert price] and

[insert start date] until [insert end date] is [insert price].

Burn time is the total time that your streetlights were on as measured by our data loggers.

Total wattage capacity is the total wattage capacity for the ICP provided to us under clause 1.3 of the Additional Conditions in Part 1 of **this agreement**.

2. METERING SERVICES CHARGES

You will pay to us the following applicable **metering services charges** in respect of each **metering installation** from the **supply start date** for the relevant **site**:

2.1 Where we provide the metering installation:

(a) You will pay to us the sum of the following applicable charges in respect of each **metering installation**:

Charges (payable only where applicable)	Category 2/3/4 meters	Category 5/6 meters
Installation and certification charge	\$350.00	\$700.00
Monthly lease per meter where you supply a land line	\$75.00	\$150.00
Monthly lease per meter where we supply a cell phone	\$85.00	\$160.00
Monthly charge for import/export metering	\$15.00	\$30.00
Monthly meter reading and reconciliation charge	\$32.00	\$32.00
Monthly charge for standard current transformer set	\$15.00	

(b) You will also reimburse us for any costs incurred by us:

- (i) for reading your meters manually; and
- (ii) in connection with providing **rule** compliant current transformers and voltage transformers to you.

2.2 Where we do not provide the metering installation:

(a) You will pay to us:

- (i) a reconciliation charge of \$32.00 per month;
- (ii) a reading charge of \$6.00 per month where the **metering installation** is able to accessed remotely;

- (iii) any costs incurred by us for reading your meters manually; and
- (iv) all installation and certification costs.

PART 3 - SCHEDULE OF TERMS

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1. ELECTRICITY SUPPLY

General

1.1 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 Contracts (Privity) Act 1982.
- (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**.

1.2 Even if **this agreement** is terminated or expires you are, subject to clause 3, 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**. All electricity measured in accordance with **this agreement** as being supplied to you after the date of termination or expiry will be charged at the **spot rate** plus 10% and is deemed to be supplied to you upon the terms and conditions of **this agreement**. We will endeavour to notify you at least 2 months prior to the **expiry date**.

1.3 We may require you to supply us with a copy of any certificate in relation to any of your **sites** required by the Electricity Regulations 1997 before we supply electricity to that **site**.

Your electricity demand

1.4 The **rules** require 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 1.5 to 1.7 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.

1.5 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

- 1.6 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.
- 1.7 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

- 1.8 We are committed to providing your electricity supply in a way that complies with all relevant laws, including the **rules**. However, supply to you may not be continuous or uninterrupted and the voltage or frequency of electricity may not be steady.
- 1.9 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 **rules**;
 - (i) to comply with instructions from any regulatory authority; or
 - (j) relating to a **force majeure event**.
- 1.10 In exercising the rights under clause 1.9, 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.
- 1.11 For planned interruptions that we control, we will use reasonable endeavours to give you at least 5 **business days** notice.
- 1.12 Following an interruption, we will endeavour to return your electricity supply to normal as soon as reasonably practicable.
- 1.13 We will use reasonable endeavours to ensure that the **network operator** gives reasonable notice of any planned interruption under sub-clauses 1.9(a) to 1.9(i) in order to facilitate your

reaching an accommodation with the **network operator** to limit the effects on you of the interruption.

2. POINT OF SUPPLY, TITLE AND RESPONSIBILITY

Point of supply

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

Title

2.2 The title to, risk and ownership of electricity supplied and delivered under **this agreement** will become yours at the time of delivery to a **point of supply**.

Responsibility

2.3 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.

2.4 You are also responsible for:

- (a) the protection (at your expense) of all of our and the **network operator's** equipment and **metering installation**:
 - (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 2.4(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 2.

2.5 We warn you that there may be fluctuations in the voltage or frequency of your electricity supply that may affect sensitive appliances. You are responsible for ensuring that all of **your installations** have adequate protection from fluctuations in voltage and frequency.

2.6 The benefit of clauses 2.3(d) and 2.4 extends to and is enforceable by the **network operator** pursuant to the Contracts (Privity) Act 1982.

2.7 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.

3. METERING AND TESTING

3.1 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.

3.2 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 **rules** pursuant to clause 3.7 or 3.13 below.

3.3 If a test carried out pursuant to clause 3.7 or 3.13 reveals that the **metering installation** does not meet the relevant standards required by the **rules** then, as soon as reasonably practicable after a determination is made under the **rules**, we will follow the process set out in clause 4.5 to correct any invoices that are found to be incorrect.

3.4 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.

3.5 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 4. 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).

Where we provide the metering installation

3.6 We, or where applicable our agent, will comply with and observe the requirements of the **rules** in the installation, operation, maintenance, and testing of any **metering installation** that we own or lease.

3.7 In the event that either you or we dispute the accuracy of the **metering installation** that we own or lease, we will arrange for the **metering installation** to be tested in accordance with the **rules** and you will provide us with reasonable assistance and access to your **sites** for this purpose. If you have disputed the accuracy of the **metering installation** and the test reveals that it meets the relevant standards required by the **rules**, then you will be responsible for the costs of the tests. If the test reveals that the **metering installation** does not meet the relevant standards required by the **rules**, we will ensure compliance with the **rules** by fixing or replacing the **metering installation** as appropriate.

Where we do not provide the metering installation

3.8 We have certain obligations under the **rules** in relation to the installation, operation, maintenance, and testing your **metering installations**. Where we do not provide you with a **metering installation**, you will comply with and observe, and will ensure that your agent complies with and observes, these obligations at all times.

3.9 You will also ensure that all **metering installations** on your **sites** are not accessed remotely by anyone other than us or our Half Hour Data Administrator without our written consent.

3.10 If any fines or fees are levied on us due to your failure to comply with the obligations placed on you by clauses 3.8, 3.9, under Part 1, or otherwise under **this agreement**, then you will be liable to us for those fines and fees and any associated costs.

3.11 You will ensure that any communications failure that prevents us from remotely reading any **metering installation** owned or leased by you is fully repaired within 5 **business days** of receiving notice of the failure from us.

3.12 We or our agent may enter onto your property to fix or replace any **metering installation** owned or leased by you as appropriate if:

- (a) you fail to rectify any breach of clauses 3.8 or 3.9, or Part 1 of **this agreement** within 10 **business days** of receiving written notice from us; or
- (b) you do not remedy any communications failure in relation to any **metering installation** owned or leased by you within 5 **business days** of receiving written notice from us,

and you will be liable for any costs incurred by us in connection with the repair, replacement or removal of such **metering installation**.

3.13 In the event that either you or we dispute the accuracy of a **metering installation** that you own or lease you will arrange for the **metering installation** to be tested in accordance with the **rules**. If we have disputed the accuracy of the **metering installation** and the test reveals that it meets the relevant standards required by the **rules**, then we will be responsible for the costs of the tests. If the test reveals that the **metering installation** does not meet the relevant standards required by the **rules**, you will ensure compliance with the **rules** by fixing or replacing the **metering installation** as appropriate.

3.14 You will notify us immediately if you change, update or modify your **metering installation** or if there is a change of ownership of any part of the **metering installation** and provide us all information we require to comply with our obligations under the **rules**.

4. CHARGES AND PAYMENT

Charges and payment

- 4.1 Unless otherwise provided in **this agreement**, you will be liable for our **charges** from the **supply start date**.
- 4.2 You must pay our invoices on or before the due date of the invoice. Subject to clause 4.4 below, without prejudice to any of our other remedies in respect of your default in failing to make payment by the due date, interest is payable at the **default interest rate** on all overdue amounts from the day after the due date until the actual date of payment, accruing daily and compounding monthly.
- 4.3 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 **rules**) 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.
- 4.4 If you dispute the accuracy of any invoice you must notify us before the due date for payment. You must pay us the undisputed amount by the due date and both you and us will resolve the dispute as soon as possible in accordance with clause 14. Upon settlement of the dispute, the appropriate adjustment to payment will be made by you paying us the amount of shortfall plus **interest**. Any payment by you must be made within 5 **business days** of the determination of the adjustment.
- 4.5 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 4.4, **interest** will be payable on the excess or 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.

5. PRUDENTIAL REQUIREMENTS

- 5.1 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 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).
- 5.2 If at any time we believe that it is reasonable for us to require further security of the kind described in clause 5.1 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.

5.3 Where we require you or the **guarantor** to provide a bond under clause 5.1, 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.

5.4 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.

6. ACCESS

6.1 Our and the **network operator's** employees, agents, subcontractors and invitees ("**our authorised personnel**") may need access to **metering installations** and other equipment on your **sites** for one of the reasons set out in clauses 6.2 and 6.3 below. Wherever practicable, we, or **our authorised personnel**, will 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.

6.2 You will give **our authorised personnel** safe and unobstructed access to 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** during **business hours** to:

- (a) connect, suspend or disconnect your electricity supply;
- (b) read, install, test, inspect, maintain, repair, replace, operate, 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 or leased by us or the **network operator**; and
- (e) for any other purpose related to **this agreement**.

You may require any of our **authorised personnel** to be accompanied by your authorised representative. **Our authorised personnel** will, where relevant, comply with any safety procedures that you reasonably require when exercising any access rights under **this agreement**.

6.3 In addition to the rights of access described in clause 6.2, you will give **our authorised personnel** safe and unobstructed access to 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** 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**.

6.4 The rights of access set out in this clause 6 are in addition to any rights of access which we, the **network operator**, or **our authorised personnel** may have under any law or any other agreement with you.

6.5 If you fail to grant to us access, in accordance with **this agreement**, to the **metering installation** or to other equipment on your **sites** associated with your electricity supply, 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.

7. LIABILITY

General

7.1 Subject to clauses 7.4 and 7.5, 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**.

7.2 Neither we nor the **network operator** 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 1.9, 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.

7.3 Neither we, the **network operator**, nor any of our 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.

7.4 You will indemnify us, and the **network operator**, against:

- (a) any costs, liability, loss or damage suffered by us 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 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 **network operator's**, or any other third party's equipment caused by your negligence or intentional action or inaction.

7.5 If you suffer loss or damage because of the action or inaction of the **network operator**, you can only claim from us what we recover from the **network operator**. 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 customer's relative annualised electricity consumption.

- 7.6 The **network operator** has excluded or limited its liability to you and to us. Unless the agreement we have with the **network operator** provides otherwise, all liability the **network operator** may have to you is excluded, as much as the law allows.
- 7.7 If the **network operator** suffers direct loss or damage which is caused or contributed to by your fraud, dishonesty or wilful misconduct, or that of your agents, employees, subcontractors and invitees, you will be liable to the **network operator** (including liable in tort (including negligence)).
- 7.8 Clauses 7.2 to 7.4, 7.6 to 7.8 and 7.11 are intended to be for the benefit of and shall be enforceable against you by the **network operator** under the Contracts (Privity) Act 1982.

Cap on liability

- 7.9 Subject to clause 7.10, 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**.
- 7.10 The cap specified in clause 7.9 will not apply to your liability under clauses 7.4(b) and 7.7.

Application of the Consumer Guarantees Act 1993

- 7.11 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.
- 7.12 All other liability, including any liability in tort or at law is hereby excluded to the maximum extent permitted by law.

8. TERMINATION

Network operator agreement

- 8.1 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

- 8.2 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**.

8.3 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.

8.4 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 8.3(a) - (e) above occur in relation to the **guarantor**.

8.5 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 7 applies, without waiver of any remedy to which the party not in default may be entitled for breach.

8.6 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**.

9. FORCE MAJEURE

9.1 Subject to clause 9.3 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**.

9.2 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.

9.3 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.

9.4 If a **force majeure event** occurs, we will endeavour to return your electricity supply to normal as soon as practicable.

10. NOTICES

10.1 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**.

11. EXCHANGE OF INFORMATION AND CONFIDENTIALITY

11.1 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**.

11.2 We acknowledge that the information referred to in clause 11.1 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.

11.3 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

rules, 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.

11.4 In any case in which the recipient discloses any matters or information referred to in sub-clause 11.3(d), the recipient will notify the discloser of the information which has been disclosed.

12. ASSIGNMENT

12.1 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**.

13. MISCELLANEOUS

Waiver

13.1 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

13.2 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

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

Privity

13.4 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 Contracts (Privity) Act 1982, but otherwise the parties do not intend to create any rights or benefits enforceable by any third party.

Change in circumstances

- 13.5 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

- 13.6 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.

14. COMPLAINTS AND DISPUTE RESOLUTION

Dispute resolution

- 14.1 Any disagreement between us shall be resolved according to the dispute resolution procedure set out below:
- (a) All parties will attempt to resolve all disputes amicably. If any party claims a dispute has arisen, written notice of the same must be given to the other parties.
 - (b) 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 accordance with clause 14.1(a).
 - (c) 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.
 - (d) If the parties are unable to resolve the dispute by mediation within 1 month of the written notice given under clause 14.1(a), the matter will be referred to the arbitration of a single arbitrator if the parties can agree on one, or otherwise by two arbitrators, one to be appointed by each parties and an umpire to be appointed by the two arbitrators before they enter into consideration of the matter. Any such reference will be a submission to arbitration within the meaning of the Arbitration Act 1996.
 - (e) Pending resolution of any dispute, the parties will continue to perform their respective obligations pursuant to the provisions of **this agreement**.
- 14.2 Nothing in clause 14.1 prevents any party from taking immediate steps to seek equitable relief before an appropriate Court.

15. INTERPRETATION

- 15.1 In this agreement, unless the context otherwise requires:

"**appointing authority**" means the President for the time being of the Institute of Chartered Accountants of New Zealand or the nominee of such President;

"**approved test house**" means an organisation that has been approved in accordance with the **rules** 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, 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;

"**commencement date**" means 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);

"**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;

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

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

"**embedded generator**" has the meaning given to it in Part A of the **rules**;

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

"**expiry date**" means the date set out as the expiry date 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;

"**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 category" means one of the metering categories described below:

<i>Meter Category</i>	<i>Interim final deadline</i>	<i>Upper kVA Limit</i>	<i>Metering Voltage</i>	<i>Amps</i>	<i>Measuring Transformers</i>	<i>Meter class required</i>	<i>Accuracy Required</i>
0					Unmetered		
1	01/04/2015	69	400 V	<=100amps	Whole Current	1	+2.5%
2	01/04/2010	346	400 V	>100 amps, <=500amps	CT	1	+2.5%
3	01/10/2002	831	400 V	>500amps, <=1200amps	CT	0.5	+1.25%
		1905	11 kV	<=100amps	CT & VT		
4	01/10/2000	1385	400 V	>12000amps, <=2000amps	CT	0.5	+1.25%
		3811	11 kV	>100amps, <=200amps	CT & VT		
5	01/10/2000	5715	11 kV	>200amps, <=3000amps	CT & VT	0.2	+0.75%
6	01/10/2000		11 kV	>=300amps	CT & VT	0.2	+0.75%
			> 11 kV		CT & VT		

"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 **rules**, 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 2 of **this agreement** at which fittings, used or intended to be used for the purposes of supplying electricity to those **sites**, enter those **sites**;

"rules" means the Electricity Governance Rules 2003, as amended from time to time and as replaced by other rules or law, and any predecessor rules as applicable;

"**site**" means each of your sites listed in Part 2 of **this agreement**;

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

"**Standard Terms and Conditions for the Supply of Electricity**" means our standard terms and conditions for the supply of electricity as amended from time to time;

"**supply start date**" means the date we commence supplying electricity to you, determined in accordance with Part 1 of **this agreement**;

"**this agreement**" means all 3 parts of **this agreement** including Parts 1, 2 and 3 as amended from time to time;

"**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.

- 15.2 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.
- 15.3 Words importing persons include corporations and vice versa.
- 15.4 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.
- 15.5 The headings used in **this agreement** are for ease of reference only and are not to be used in interpreting the provisions.
- 15.6 Unless the context otherwise requires, words denoting the singular number include the plural and vice versa.