

LARGE CUSTOMER ELECTRICITY DEFAULT CONTRACT FOR RETAILER OF LAST RESORT SUPPLY

AGL South Australia Pty Limited ABN 49 091 105 092

Effective from July 2007



PREAMBLE

Please note: This contract is about the sale of electricity to you as a customer at your current supply address (but only if this contract is expressed to apply to you in relation to that supply address). It does not deal with how that electricity is supplied to your supply address. You have a separate contract with your distributor dealing with the connection of your supply address to the distribution network and the supply of electricity to your supply address.

These standard terms and conditions are published in accordance with section 36 of the South Australian Electricity Act 1996 and will come into force on the effective date. When in force these standard terms and conditions will by law be binding on us and any customer to whom they are expressed to apply without the need for us or that customer to sign a document containing these terms and conditions.

1 THE PARTIES

This contract is between:

AGL South Australia Pty Ltd (ABN 49 091 105 092) of PO Box 888, Adelaide 5001 (in this contract referred to as “we”, “our” or “us”); and You, the **customer** to whom this contract is expressed to apply (in this contract referred to as “you” or “your”).

2 DEFINITIONS

Words appearing in italics like **this** are defined in Schedule 1 to this contract.

3 APPLICATION OF THESE TERMS AND CONDITIONS

3.1 Application

This contract will apply to you at your **supply address** (and as a consequence you will be deemed by section 36 of the **Electricity Act** to have a contract with us) if:

- a) you are not a **small customer** in relation to your **supply address**;
- b) we have a **retailer of last resort obligation** to you for your **supply address**;
- c) we are the **financially responsible market participant** for that **supply address**; and
- d) you have not entered into a **market contract** with us in relation to that **supply address**.

4 TERM OF CONTRACT

4.1 Commencement of contract

Your contract with us for your **supply address** will start on the **effective date** or the date that we have a **retailer of last resort obligation** to you for your **supply address**, whichever occurs later.

4.2 End of contract

This contract will end when:

- (a) you become a **small customer** in relation to your **supply address**; or
- (b) we cease to have a **retailer of last resort obligation** to you for that **supply address**;
- (b) we cease to be the **financially responsible market participant** at your **supply address**; or
- (c) we enter into a **market contract** with you, or a **market contract** with someone else, in relation to your **supply address**; or
- (d) it is terminated under clause 15.

If your contract ends and you have not entered into a **market contract** with us or another **retailer** for that **supply address** you will be deemed by section 36 of the **Electricity Act** to have a **default contract** with us. A copy of our **default contract** can be found at our website

4.3 Rights on the contract ending

The ending of this contract does not affect any rights or obligations which have accrued under this contract prior to that time.

5 SCOPE OF THIS CONTRACT

5.1 What is covered by this contract

This contract applies only to the sale of electricity to you at your **supply address**, and related services. We agree to sell to you electricity supplied to your **supply address** (by your **distributor**) and perform our other obligations set out in this contract.

In return, you are required to pay the amount billed by us under this contract, and perform your other obligations under this contract.

5.2 What is not covered by this contract

We do not operate the electricity network to which your **supply address** is connected. This is the role of your **distributor**.

You have a separate **connection and supply contract** with your **distributor**. Your **distributor** is responsible for:

- (a) the connection of your **supply address** to the electricity network;
- (b) the maintenance of that connection;
- (c) the **supply** of electricity to your **supply address**; and
- (d) the quality and other characteristics of electricity.

Unless you negotiate a different arrangement with your **distributor**, your **connection and supply contract** will automatically come into place by operation of law.

5.3 Quality of electricity supplied to your supply address

We cannot regulate the quality or reliability of electricity supplied to your **supply address**. You should also be aware that electricity suffers fluctuations and interruptions from time to time for a number of reasons, including:

- (a) the location of the **supply address**;
- (b) whether your **supply address** is served by underground or overhead mains;
- (c) the weather conditions;
- (d) animals, vegetation, the actions of vandals and other people;
- (e) the existence of emergency or dangerous conditions;
- (f) damage to an electricity network;
- (g) the design and technical limitations of the electricity network; and
- (h) the demand for electricity at any point in time.

You should understand that unexpected fluctuations or interruptions may cause damage to your equipment or cause it to malfunction. We are not responsible for loss or damage caused by any of these things occurring or caused by the acts or omissions of third parties, including your **distributor**.

6 OUR LIABILITY

6.1 How this clause operates with the Trade Practices Act etc

The Trade Practices Act 1974 (Cth) and other laws imply certain conditions, warranties and rights into contracts that cannot be excluded or limited.

Unless one of these laws requires it, we give no condition, warranty or undertaking, and we make no representation to you about the condition or suitability of electricity, its quality, fitness or safety, other than those set out in this contract.

Any liability we have to you under these laws that cannot be excluded but that can be limited is (at our option) limited to:

- (a) providing equivalent goods or services provided under this contract to your **supply address**; or
- (b) paying you the cost of replacing the goods or services provided under this contract to your **supply address**, or acquiring equivalent goods or services.

6.2 Not liable

So far as the law allows, we are not liable for any loss or damage you suffer (whether due to negligence or otherwise), because of the electricity we sell to you under this contract. In particular, we are not liable for any loss or damage you may suffer because:

- (a) there is a failure of electricity **supply**, or there is a defect in the electricity supplied (however caused); or
- (b) some characteristic of the electricity (for example, voltage or frequency) makes it unsuitable for some purpose.

6.3 National Electricity Law

This clause 6 applies in addition to, and does not vary or exclude, the operation of section 120 of the National Electricity law.

6.4 Survival of this clause

This clause 6 survives the ending of this contract.

7 PRICE FOR ELECTRICITY AND OTHER SERVICES

7.1 Charges

Our current charges for the electricity and other services sold to you are set out in the schedule attached to this contract (which is the **price list** current at the date of publication of this contract).

Other amounts relating to the sale of electricity to you, including special meter reading fees, street lighting, account application fees and fixed charges for special purpose electricity sales will be separately itemised on your bill.

In addition to our charges, you must also pay to us all **network charges, market charges, metering charges, emissions and renewable energy charges** and **energy loss charges** applicable to your **supply address** or the quantity of electricity we sell to you at your **supply address**.

7.2 Conditions of charges

Our **price list** explains the conditions that need to be satisfied for each charge.

7.3 Variations to your charges

Any variation to our **price list** will be published on our website.

If the conditions applying to our charges change so that your previous charges no longer apply to you at your **supply address**, we can decide which charges will apply.

7.4 Changes to charges during a billing cycle

If a charge applying to you changes during a **billing cycle**, your bill for that **billing cycle** will be calculated on a pro-rata basis using:

- (a) the old charge up to and including the date of change; and
- (b) the new charge from that date to the end of the **billing cycle**.

7.5 Changes to the charge type during a billing cycle

If the type of charge applying to you changes during a **billing cycle**, your bill for that **billing cycle** will be calculated using:

- (a) the old charge up to and including the date of change; and
- (b) the new charge from that date to the end of the **billing cycle**.

7.6 Pass through of taxes and other charges

In some cases we can pass through to you certain taxes and other charges in accordance with the **electricity law**. We can do this by either changing the charges, or including the amount as a separate item in your bill.

7.7 GST

- (a) Unless expressly stated otherwise, all amounts payable or other consideration provided in respect of transactions under this contract are expressed exclusive of **GST** (if any). Where a **supply** under this contract is a taxable **supply**, all amounts payable or other consideration provided must be increased by the amount of **GST** payable in relation to the transaction.
- (b) All **GST** payable must be paid at the same time as the payment to which it relates is payable. Where any **GST** payable is not referable to an actual payment then it must be paid within 10 **business days** of a tax invoice being issued by the party making the taxable **supply**.

8 BILLING

8.1 When bills are sent

Where practicable, we will send a bill to you at the end of each **billing cycle**. We are not obliged to send a bill to you where we do not have a postal address for you or the **supply address**. The provisions of clause 19 (Notices) apply as if a bill is a notice.

8.2 Calculating your bill

We will calculate at the end of each **billing cycle**:

- (a) the bill for electricity sold during that **billing cycle** (using information obtained from reading your **metering equipment** or by using reasonable estimates); and
- (b) the amount for any **network charges, market charges, metering charges, emissions and renewable energy charges** and **energy loss charges** applicable to your **supply address** or the quantity of electricity we sell to you at your **supply address** during the **billing cycle**;
- (c) the amount for any other services supplied under this contract during the **billing cycle**.

The bill may also include:

- (a) unbilled charges, **network charges, market charges, metering charges, emissions and renewable energy charges** and **energy loss charges** incurred in respect of a previous **billing cycle**;
- (b) adjustments in relation to any charges, **network charges, market charges, metering charges, emissions and renewable energy charges** and **energy loss charges** which were billed or should have been billed in respect of a previous **billing cycle**; and
- (c) any other charges, **network charges, market charges, metering charges, emissions and renewable energy charges** and **energy loss charges** attributable to you at your **supply address**, or any other address at which you purchase electricity from us.

8.3 Payments to the distributor

Unless otherwise agreed with your **distributor**, **network charges** payable by you will be collected by us as agent for and on behalf of your **distributor**. We are entitled to take action separately under this contract and in our own name to recover any **network charges** owing by you from time to time.

8.4 Estimating the electricity usage

If your **metering equipment** is faulty or unable to be read, or your **metering data** is not obtained or is considered to be incorrect for any reason, the amount of electricity which was purchased from us at your **supply address** may be estimated by us. If we choose, we may rely on an estimate provided by your **distributor**.

When your **metering equipment** is subsequently read, the bill will be adjusted for the difference between the estimate and the actual amount of electricity used, based on the reading of the **metering equipment**.

If the **metering equipment** is unable to be read due to your actions, we can bill you for any charges we incur in arranging for a meter reader returning to your **supply address** to read the **metering equipment**, including where necessary, any costs charged by the **distributor** in relation to obtaining a warrant to enter your **supply address**.

9 PAYING YOUR BILL

9.1 What you have to pay

Subject to clause 9.3, you must pay to us (free of set-off and without deduction) the amount shown on each bill by the **due date**.

9.2 Late payments

If you do not pay your bill by the **due date**, (including where any amount in dispute is subsequently required to be paid by you), we may charge interest on the unpaid amount from the **due date** at the **interest rate** and compounded monthly.

We may also require you to pay any costs incurred by us in recovering any amounts you owe to us (including any amount in dispute that is subsequently required to be paid by you), or due to your breach under this contract.

9.3 Review of bills

Subject to clause 9.4, if you believe on reasonable grounds that any part of a bill is incorrect, then you may ask us to review the bill. Any such request must be in writing and must set out the grounds for your belief that the bill is incorrect. You must pay us the part of the bill not in dispute by the **due date**. You must also pay any future bills.

We will inform you of the outcome of our review within a reasonable period. If our review shows the bill to be correct, you must pay the amount of the bill in full. If our review shows that your grounds for believing the bill to be incorrect were not reasonable, you must pay interest on the unpaid amount from the **due date** in accordance with clause 9.2.

9.4 Distributor charges

Despite clause 9.3, you must pay all **network charges** due to your **distributor** under your **connection and supply contract** in full by the **due date**.

9.5 Rights to disconnect not affected

This clause 9 does not affect our right to arrange for your **supply address** to be disconnected under clause 12 of this contract.

10 METERING EQUIPMENT

10.1 Access

You must allow safe and convenient access to your **supply address** to us, your **distributor** and any other person authorised either by us or your **distributor** for the purposes of reading the relevant **metering equipment**.

10.2 Final meter reading

When this contract ceases to apply to your **supply address**, your **metering equipment** will be read and a final bill sent for all outstanding charges (which bill will be payable in the normal manner).

11 SECURITY DEPOSITS

11.1 Requirement of security deposit

We may require you to provide a **security deposit**. If you fail to do so within 20 **business days** of our request, we may arrange for disconnection in accordance with clause 12.

11.2 Use of a security deposit

We may use your **security deposit**, and any interest earned on the **security deposit**, to offset any amount you owe under this contract or under your **connection and supply contract** with your **distributor**.

- (a) if you fail to pay a bill and, as a result, we arrange for the disconnection of your **supply address**; or
- (b) in relation to a final bill.

12 DISCONNECTION OF SUPPLY

We can arrange for the disconnection of your **supply address** immediately if:

- (a) you breach any of your obligations under this contract and fail to remedy the breach within 14 days of receipt of a request from us to do so;
- (b) you fail to pay by the **due date** the whole or any part of each bill relating to 2 or more consecutive **billing cycles**;
- (c) an **insolvency event** has occurred or continues in respect of you;
- (d) we reasonably consider that you are failing to comply with your obligations under any **electricity law**, we notify you that you must comply with those obligations, and we reasonably consider that you have failed to do so within the time set out in that notice;
- (e) we reasonably believe that electricity has been used but not recorded at your **supply address**, or that the **metering equipment** at your **supply address** has been interfered with;
- (f) this contract ends for any reason; or
- (g) if we give you 20 **business days'** prior notice of our intention to do so.

13 RECONNECTION AFTER DISCONNECTION

If you request us to arrange reconnection of your **supply address** and you pay to us all of our and the **distributor's** reconnection charges in advance, we may arrange for the reconnection of your **supply address**.

We may impose any conditions in respect of reconnection we see fit, or refuse to arrange reconnection and terminate this contract if we are allowed to do so under the **electricity law**.

14 VACATING A SUPPLY ADDRESS

14.1 Notice

You must give us 20 **business days** notice if you intend to:

- (a) vacate your **supply address**;
- (b) sell or otherwise part with possession of your **supply address**;
- (c) cease to operate your business from your **supply address**; or
- (d) enter into a **market contract** for your **supply address** with another **retailer**.

14.2 Final reading

When we receive the notice we will use our reasonable endeavours to arrange that your **metering equipment** is read on the date specified in the notice and send a final bill to you at the forwarding address specified in your notice.

14.3 Responsibility for electricity purchased

If you do not provide the required notice, or if you do not provide access to your **metering equipment**, you will be responsible for all electricity purchased at the **supply address** until:

- (a) we become aware that you have vacated the **supply address** and the relevant **metering equipment** has been read;
- (b) you give us the required notice; or
- (c) a different **retailer** becomes the **financially responsible market participant** for your **supply address**.

15 TERMINATION

15.1 By either party

Either party may terminate this contract at any time by giving not less than 20 **business days'** notice in writing to the other party.

15.2 By us

We may terminate this contract by notice in writing to you at any time after we become entitled to arrange, or we arrange, disconnection under clauses 12 (a), (b), (c), (d), (e) or (g).

16 USE OF ELECTRICITY AND ILLEGAL USE

16.1 Use of electricity

You must not:

- (a) allow electricity purchased from us to be used other than in accordance with this contract or applicable **electricity law**; or
- (b) tamper with, or permit tampering with, any **metering equipment**.

16.2 Illegal use

If you have breached clause 16.1 of this contract, we may:

- (a) estimate the amount of the electricity so obtained and bill you for that amount; and
- (b) arrange for the immediate disconnection of your **supply address**.

17 INFORMATION WE NEED

17.1 Provision of information

You must provide us with all information we reasonably require for the purposes of this contract. All information must be correct. You must tell us if information you have provided to us changes (for example, if your address changes).

17.2 Notice of small customer status

You must notify us immediately if you become a **small customer**.

18 WE CAN AMEND THIS CONTRACT

We can amend this contract by publishing such amendment in the South Australian Government Gazette, or in accordance with the requirements of the **Electricity Act**. Any amendment will take effect from the date referred to in the South Australian Government Gazette.

19 NOTICES

Unless this document says otherwise, all notices must be sent in writing. We can send to you notices at the address at which you buy electricity from us under this contract or the most recent address that we have for you. If a notice is sent by post, we can assume that you have received the notice on the second **business day** after it was sent. If you have not provided your name to us, any notice need not refer to you by name.

20 CONFIDENTIALITY

20.1 Privacy of information

Subject to clauses 20.2, 20.3 and 23 of this contract we must keep your information about you confidential.

20.2 Disclosure

We may, however, disclose information about you:

- (a) to law enforcement agencies, or to other agencies or persons to whom we are required by law or stock exchange rules to make disclosure;
- (b) where you give us consent;
- (c) to your **distributor** or a metering provider to the extent that information is for the purposes of arranging connection, disconnection, reconnection, testing of **metering equipment** and billing; and
- (d) to our officers, employees, contractors or advisers (or those of a **related body corporate**) for any purpose which is connected to this contract.

You also authorise us to seek from you, and give to:

- (a) credit reporting agencies;
- (b) other credit providers;
- (c) the **distributor** or another **retailer** of electricity; and
- (d) our agents, contractors and franchisees,

such information about your credit worthiness, credit default, credit history or credit capacity as credit providers are allowed to give or receive from each other or credit reporting agencies under applicable laws.

20.3 Use of information for marketing

Unless prevented by law, we or our related bodies corporate can use your information about you to offer to sell you other products and services. You may notify us at any time if you do not wish us to use your information in this manner.

21 FORCE MAJEURE

If you or we fail to observe or perform wholly or in part any obligation (other than an obligation to pay money) under this contract, such failure is deemed not to be a breach of this contract if it was caused by or arose as a consequence of a **force majeure event**.

22 APPLICABLE LAW

The laws of South Australia govern this contract.

We and you submit to the non-exclusive jurisdiction of the Courts of South Australia.

23 LAST RESORT EVENT

This contract will end if we are no longer entitled to sell electricity due to a **last resort event** in respect of us. In this event we will within 1 **business day** provide your name, billing address and associated **NMI** and **NMI** checksum to the electricity entity appointed as the **retailer** of last resort.

SCHEDULE 1: DEFINITIONS

“approved energy loss factors” means any loss factors (including both the intra-regional loss factors and the distribution loss factors) approved by the **system operator** or any other regulatory authority from time to time;

“billing cycle” means the regular recurrent period (or approximate period) for which you receive a bill from us;

“business day” means a day on which banks are open for general banking business in Adelaide, other than a Saturday, or a Sunday;

“connection and supply contract” means the contract you have with your **distributor** to connect and **supply** electricity to your **supply address**;

“connection point” means a **connection point** to the transmission or **distribution network**;

“customer” means a **customer** as defined in the **Electricity Act** and includes an owner of the relevant **supply address** where there is no other occupier of the **supply address**, or where the identity of the occupier is not known to us;

“default contract” means a contract published in accordance with section 36 of the **Electricity Act** between a **retailer** and a **customer** who is not a **small customer**;

“default contract for retailer of last resort supply” means a **default contract** published for the purposes of a **retailer of last resort obligation**;

“distribution network” means the network of electric lines and other equipment through which a **distributor** supplies electricity;

“distributor” means a holder of a licence to operate a **distribution network** under Part 3 of the **Electricity Act**;

“due date” means the date for payment shown on a bill;

“effective date” means the date that these standard terms and conditions come into force in accordance with section 36(3) of the **Electricity Act**;

“Electricity Act” means the **Electricity Act** 1996 (SA), as amended;

“electricity law” means any statute, regulation, code, direction, mandatory guideline, licence condition or other regulatory instrument which governs or affects any one or more of the price of electricity, the cost to us of purchasing or selling electricity, the delivery of electricity, the sale of electricity to you or the electricity industry generally;

“emissions and renewable energy legislation” means the Renewable Energy (Electricity) Act 2000 (Cth) and any other **electricity law** which has as one of its purposes the reduction or limitation of greenhouse gases or the minimisation of the impact on the environment of the electricity industry generally;

“emissions and renewable energy charges” means the amount fixed by us from time to time and set out in your bill as the charge which we reasonably determine should be paid by you on account of any cost or liability imposed on or incurred by us under or as a direct or indirect consequence of any **emissions and renewable energy legislation** (including the cost of acquiring renewable energy certificates or any other relevant tradeable assets such as assigned (“greenhouse friendly”) generation, carbon sequestration credits or electricity sales foregone) or any reasonable estimate of any such cost or liability likely to be so imposed on or incurred by us in the future;

“energy loss charges” means the charges calculated using the **approved energy loss factors** applicable to your **supply address** and our charges;

“financially responsible” has the same meaning as set out in the *National Electricity Rules*;

“force majeure event” means in relation to a party, any event or circumstance outside that party’s control, including:

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

“GST” has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth);

“insolvency event” includes the appointment of a receiver, administrator, liquidator or similar person, a compromise, arrangement, official management, winding-up, dissolution, cessation of business, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy or any similar procedure or where applicable, changes in the constitution of any partnership or person, or any failure to provide credit support or a *security deposit* when required by this contract;

“interest rate” means the Westpac Banking Corporation corporate overdraft reference rate as at the *due date* for payment plus a margin of 2% per annum;

“last resort event” means an event which triggers the operation of the *retailer* of last resort scheme approved by the Essential Services Commission of South Australia;

“market charges” means the amount of charges imposed by *electricity law*, the *system operator* or any other regulatory authority, and includes any ancillary services charges or costs, and any other charges associated with the operation of the national electricity market;

“market contract” means a contract for the sale of electricity other than a *default contract* between a *retailer* and *customer* who is not a *small customer*;

“market participant” has the meaning given to that term in the *National Electricity Rules*;

“metering charges” means all costs incurred in relation to the provision of *metering equipment*, and the collection and distribution of the data from that equipment;

“metering data” has the meaning given to that term in the National Electricity Code;

“metering equipment” means equipment installed (or to be installed) to measure, record and in certain cases forward the data relating to the amount of electricity delivered to a *supply address* from the transmission or distribution system;

“National Electricity Rules” means the rules made under the National *Electricity law*;

“network charges” means any costs charged by your *distributor* in relation to your *supply address* under your *connection and supply contract*;

“NMI” means a National Metering Identifier assigned to a metering installation at an electricity *customer’s supply address*;

“NMI checksum” means a National Metering Identifier Checksum associated with a *NMI*;

“price list” means our list of current charges applying to you from time to time;

“retail contract” has the meaning given to that term in the Electricity (General) Regulations 1997 (SA) made under the *Electricity Act* but does not include a **default contract** for **retailer of last resort supply**;

“retailer” means a person licensed under the *Electricity Act* to retail electricity;

“retailer of last resort obligation” means an obligation arising from a **last resort event**;

“related body corporate” has the meaning given to that term in the Corporations Act 2001 (Cth);

“security deposit” means an amount of money or other arrangement acceptable to us provided as a security against default on a bill;

“small customer” has the meaning given to that term in the Energy Retail Code;

“supply” means the delivery of electricity;

“supply address” means:

(a) where there is only one **connection point** for which we are **financially responsible** at an address, that address; or

(b) where there is more than one **connection point** for which we are **financially responsible** at an address, each **connection point** at that address.

“system operator” means any person or body appointed under the *electricity law* whose functions are, among **GST** other things, to operate and administer the market for wholesale trading in electricity, control the security of the electricity **supply** system, or regulate and monitor the electricity transmission system.

“transmission or distribution network” has the meaning given to that term in the *Electricity Act*.