

next.  
business  
energy



Large Retail Customer  
Terms & Conditions

a fresh approach to energy

Next Business Energy Pty Ltd ACN 167 937 555 of Level 1, 180 Flinders St, Melbourne 3000 ("Next Business Energy") and the Large Retail Customer named in the Customer Agreement Form ("Customer") agree to enter into a Retail Electricity Contract ("Contract") on the following terms and conditions.

## 1. The Contract

- 1.1 The Contract consists of the Customer Agreement Form, these Terms and Conditions and any other schedule, addendum, offer or product information that forms part of the Contract.
- 1.2 Next Business Energy agrees to sell electricity to the Customer and the Customer agrees to purchase electricity from Next Business Energy and accept the supply of electricity at the Site for the Minimum Period.
- 1.3 The Contract is not a fixed term contract and does not have a termination date.

## 2. Minimum Period

- 2.3 The Minimum Period commences when the Site is connected to the Distribution Network, Next Business Energy becomes the financially responsible retailer for the Site and the supply of electricity to the Site under the Contract starts.
- 2.2 If the Customer terminates the Contract before the end of the Minimum Period, the Customer will be required to pay the Early Termination Charge, which is Next Business Energy's reasonable estimation of its loss suffered or incurred as a direct or indirect result of the termination of the Contract before the end of the Term, including loss of profits, costs of cancelling or offsetting electricity wholesale contracts and administration costs.
- 2.3 Next Business Energy reserves the right to reject the Contract for any reason before the start of the Minimum Period.

## 3. Transfer of Site

- 3.1 The Customer consents to the transfer of the Site to Next Business Energy as the Customer's electricity retailer and authorises Next Business Energy to do all things reasonably necessary to complete that transfer, including obtaining identification data, consumption data, half hourly meter data and expenditure information on all of the metered consumption points at the Site and installing or replacing any necessary metering at the Site.
- 3.2 Next Business Energy cannot be responsible for any delay in the transfer of the Site.

## 4. Electricity Supply Responsibilities

- 4.1 The Customer acknowledges that the Distributor is responsible for the supply of electricity to the Site and that the supply of electricity may be subject to variations in voltage and frequency and may contain voltage surges, which may cause damage to equipment or premises. Next Business Energy is unable to guarantee the quality and security of supply of electricity.
- 4.2 The Distributor may disconnect, interrupt or reduce the supply of electricity to the Site. To the full extent permitted by law, the Customer releases Next Business Energy from any liability for such disconnection, interruption or reduction in the supply of electricity or any variation in the voltage and frequency of the supply.

## 5. Liability

- 5.1 Any liability Next Business Energy may have to the Customer is limited to the maximum extent permitted by the Competition and Consumer Act 2010 and (if applicable) the Australian Consumer Law. In relation to the supply of electricity other than for personal, domestic or household use or consumption, Next Business Energy's liability is limited to the resupply of the electricity or the cost of the supply of equivalent electricity by another retailer. In the case of supply of goods other than electricity or of supply of services, other than for personal, domestic or household use or consumption, Next Business Energy's liability is limited to the resupply of the goods

or services or the payment of the cost of having the goods or services resupplied.

- 5.2 The Contract and these Terms and Conditions do not amount to a waiver or exclusion by Next Business Energy of the limitation of liability provided by section 120 of the National Electricity Law, section 316 of the National Energy Retail Law or any other applicable legislation.
- 5.3 So far as the law allows, Next Business Energy is not liable for any loss, damage or expense (including loss of profit, loss of revenue or loss of commercial opportunity) the Customer may suffer, arising out of or in relation to the sale or supply (or failure to supply) of electricity to the Customer under the Contract.

## 6. Metering

- 6.1 The Customer must allow Next Business Energy safe and convenient access to the electricity meter or metering equipment at the Site for the purposes of measuring the amount of electricity consumed at the Site, or installing, replacing or maintaining any of that equipment or installing a new meter.
- 6.2 If meter data for the Site is not obtained for any reason, the amount of consumption may be estimated, based upon meter readings previously taken at that Site. Where Next Business Energy issues an invoice that is based on an estimation and subsequently issues an invoice that is based on an actual meter reading, it will include an adjustment on the later invoice to take account of any under-estimation or over-estimation that may have occurred.
- 6.3 If the Customer's electricity consumption or demand pattern changes during the Minimum Period, it may be necessary for Next Business Energy to arrange for the installation of replacement meters at the Site. If this occurs, the Customer will pay Next Business Energy any additional or adjusted Metering Charges arising out of the installation of such meters.

## 7. Charges and Payment

- 7.1 The Charges for the supply of electricity are set out in the Customer Agreement Form and will be based on the Customer's measured or estimated consumption, adjusted by applicable transmission loss factors and distribution loss factors. Where an accurate meter read cannot be obtained at the Site, the Customer's consumption of electricity will be estimated. The Charges paid by the Customer will be reconciled with the consumption measured and subsequent invoices will be adjusted to reflect the difference between the estimates and the actual amount of electricity consumed.
- 7.2 The Customer must pay the Charges as specified in the Customer's invoices and within the payment period specified in the invoices. Unless otherwise agreed, the Customer will be invoiced monthly.
- 7.3 Where agreed, Next Business Energy will arrange for the Customer to pay invoices under a bill smoothing arrangement, which is based on a 12 monthly estimate of the electricity consumption at the Site.
- 7.4 Unless otherwise agreed, all invoices and other communications from Next Business Energy will be sent electronically to the Customer's nominated email address. Where the Customer elects to receive paper invoices, there may be a small charge to cover the administrative cost of sending them.
- 7.5 Where the Contract covers more than one Site, the Charges for all Sites will be combined in the Customer's invoices, unless otherwise agreed.
- 7.6 Where the Customer pays an invoice by credit card, any merchant service fees will be passed on to the Customer. If any payment of an invoice is dishonoured or reversed, resulting in Next Business Energy incurring a fee, this fee will be charged to the Customer.
- 7.7 Next Business Energy may charge monthly compound interest on any amount remaining unpaid after the due date at a rate equal to the Commonwealth Bank Corporate

Overdraft Reference Rate most recently published or equivalent. Next Business Energy may also charge the reasonable cost of collecting payments that are overdue.

- 7.8 Each year during the Minimum Term and any subsequent extension of the Contract, the Energy Rates may be increased to reflect any increase in the Consumer Price Index (all groups) for the Weighted Average of Eight Capital Cities published by the Australian Bureau of Statistics in respect of the preceding year.
- 7.9 All amounts payable under the Contract are stated as GST exclusive. If any GST is or becomes payable in respect of a Taxable Supply of goods or services under this Contract, the Charges payable by the Customer for that Taxable Supply of goods or services will be increased by an amount equal to the GST payable. "GST" and "Taxable Supply" have the meanings set out in the GST Act.

## 8. Extension of the Minimum Period

- 8.1 At the end of the Minimum Period, the Contract will not end but will continue in force on the same Terms and Conditions and for the same length of time ("Renewal Period"), unless the parties enter another Retail Electricity Contract for the sale and supply of electricity at the Site, or unless the Site is either disconnected from the Distribution Network or transferred to another electricity retailer. At any time during the renewal period, Next Business Energy may vary the Charges.
- 8.2 Next Business Energy will continue to be the retailer for the Site until the Site is either disconnected or transferred to another electricity retailer. After the end of the Minimum Period, if the Customer wishes to terminate the Contract, the Customer must either transfer the Site to another retailer or arrange to have the Site disconnected from the Distribution Network. The Customer will otherwise remain liable to Next Business Energy for all electricity supplied to the Site.

## 9. Changes in Consumption

- 9.1 The Customer must give Next Business Energy at least three months' notice if there is likely to be any variation in the monthly electricity consumption at the Site or Sites of more than ten percent above or below the average monthly consumption in the preceding months of the Minimum Period.
- 9.2 If no notice is given under clause 9.1 and the variation in the monthly electricity consumption at the Site or Sites is more than ten percent above or below the average monthly consumption in the preceding months of the Minimum Period, Next Business Energy will be entitled to charge the Customer with any costs it incurs arising out of the variation.

## 10. Multiple Sites

- 10.1 The Contract may apply to more than one Site.
- 10.2 The Customer may request that one or more additional Sites be added to the Contract and Next Business Energy agrees to add any such additional Site or Sites to the Contract where practicable. The Charges applicable to the additional Site or Sites may be different from the Charges applying to the original Site or Sites.
- 10.3 Where the Contract applies to more than one Site, Next Business Energy will agree to the removal of one or more Sites from the Contract without penalty, provided the average monthly annual consumption of electricity at the Sites that are removed is no more than twenty per cent of the average monthly consumption of all the Sites (including those that are removed).

## 11. Termination for Breach

- 11.1 Next Business Energy may, by giving seven days' notice in writing, terminate the Contract and the operation of the Contract in respect of any Site, if any of the following occurs:

- (a) The Customer fails to pay any amount payable under the Contract within the payment period specified in an invoice from Next Business Energy;
- (b) The Customer fails to provide a security deposit as required under the Contract; or
- (c) The Customer commits any other breach of the Contract.

11.2 Where the Contract is terminated under clause 11.1, Next Business Energy may, without prior notice, arrange for the disconnection of the Site from the Distribution Network and will be entitled to claim damages from the Customer, being Next Business Energy's costs, loss and expenses arising from the Customer's breach of the Contract, including loss of profits, costs of cancelling or offsetting electricity wholesale contracts and administration costs.

## 12. Termination for Insolvency Event

12.1 Next Business Energy may terminate the Contract by immediate notice if an Insolvency Event occurs in relation to the Customer.

12.2 Where the Contract is terminated under clause 12.1, Next Business Energy may, without prior notice, arrange for the disconnection of the Site from the Distribution Network and will be entitled to claim damages from the Customer, being Next Business Energy's costs, loss and expenses arising from the Customer's breach of the Contract, including loss of profits, costs of cancelling or offsetting electricity wholesale contracts and administration costs.

## 13. Security Deposit

13.1 If the Customer's creditworthiness is not reasonably acceptable to Next Business Energy at any time during the term of the Contract, Next Business Energy may require the Customer to provide a security deposit in a form reasonably acceptable to Next Business Energy. The value of the security deposit will be no more than 1.5 times the Customer's estimated monthly invoice.

13.2 If the Customer fails to provide the security deposit within seven days of Next Business Energy's request, Next Business Energy may terminate the Contract and arrange for the Site to be disconnected from the Distribution Network without further notice in accordance with clause 11.

## 14. Assignment or Transfer of the Contract

14.1 The Customer may only assign or transfer its rights under the Contract if Next Business Energy gives its consent, which will not be unreasonably withheld. In this clause 14.1, "assignment" is deemed to include a change in effective control of the Customer.

14.2 Next Business Energy may assign, novate or transfer the Contract without the Customer's consent.

14.3 The Customer may request that the Contract be transferred to another Site and Next Business Energy may in its discretion, authorise that transfer with such agreed alterations to the Contract as are reasonably necessary to effect that transfer.

## 15. Force Majeure Event

15.1 If an event or circumstance outside Next Business Energy's reasonable control occurs which affects Next Business Energy's ability to perform its obligations under the Contract ("Force Majeure Event"), Next Business Energy's obligations under the Contract will be suspended to the extent to which its performance of those obligations is affected by the Force Majeure Event and for as long as the Force Majeure Event continues to affect Next Business Energy.

## 16. Last Resort Event

16.1 "Last Resort Event" means an event which triggers the operation of the retailer of last resort scheme approved by the energy regulator in the State or Territory where the Site is situated.'

16.2 If Next Business Energy is no longer entitled, under the Energy Laws, to continue as the electricity retailer in respect of the Site due to a Last Resort Event happening, Next Business Energy will be required to provide the Customer's name and details to the electricity entity appointed as the retailer of last resort and this Contract will be automatically terminated.

## 17. Disputes

17.1 Next Business Energy and the Customer will use best endeavours to resolve any dispute which may arise in connection with the Contract by negotiation conducted in good faith involving each party's Chief Executive Officer or his or her nominee.

17.2 If a dispute is not resolved within fourteen days, either party may then refer the dispute to mediation by a mediator nominated by an appropriate representative of the Institute of Arbitrators and Mediators Australia.

17.3 Where a dispute arises in connection with the Contract, the parties must continue to perform and comply with their obligations under the Contract to the extent that such obligations are not the subject of the dispute.

## 18. Change in Energy Laws

18.1 If any amendments to the Contract are, in the reasonable opinion of Next Business Energy, reasonably required due to a change in Energy Laws or other applicable laws, regulations or codes, then Next Business Energy may make such amendments, which will commence from the date Next Business Energy notifies the Customer of the amendments.

18.2 If there is any change in the Energy Laws that has the effect of increasing the cost to Next Business Energy of purchasing the electricity sold to the Customer, Next Business Energy may impose a charge on the Customer to recover any such increase in the cost to Next Business Energy resulting from the change.

## 19. General Provisions

19.1 The Contract represents the entire Contract between the parties and supersedes all prior arrangements or understandings.

19.2 If any term or clause of the Contract is or becomes invalid or unenforceable, then the other terms remain valid and unaffected and will continue for the duration of the Contract.

19.3 The provisions of the Contract may only be varied by a further written Contract between the parties. No variation of the provisions of the Contract shall be inferred from a course of conduct.

19.4 A waiver (either wholly or in part) by Next Business Energy of any breach or failure to comply with this Contract by the Customer will not operate or be deemed to operate as a waiver of any subsequent breach or failure to comply with this Contract.

19.5 The Contract is governed by the laws of the State or Territory where the Site is situated.

## 20. Definition of terms used in these Terms and Conditions

**Charges** means the charges relating to the sale and supply of electricity under the Contract, including Energy Rates, Distribution Network Charges passed through from the Distributor, Environmental Costs and other pass through charges specified in the Customer Agreement Form and/or invoices;

**Contract** comprises the Customer Agreement Form, these Terms and Conditions and any schedule, addendum or product information which is stated to be incorporated into the Contract;

**Distributor** means the operator of the Distribution Network;

**Distribution Network** means the electricity distribution network to which the Site is connected;

**Distribution Network Charges** means the costs and fees charged by the Distributor relating to the physical supply of electricity at the Site;

**Energy Rates** means that part of the Charges that relates to the electricity sold and supplied to the Site under the Contract and is referred to as Energy Rates in the Customer Agreement Form;

**Energy Laws** means all applicable National and State laws and rules relating to the sale or supply of energy, including the legal instruments made under those laws and rules and any changes to those laws and rules;

**Environmental Costs** means Next Business Energy's direct or indirect costs of complying with any of its Environmental Requirements;

**Environmental Requirement** means any obligation imposed on or assumed by Next Business Energy for the purposes of reducing greenhouse gas emissions or of achieving any other environmental benefit, including any schemes or incentives to reduce electricity consumption or to increase energy efficiency or the generation of renewable energy;

**GST Act** means the A New Tax System (Goods and Services Tax) Act 1999;

**Insolvency Event** includes the appointment of an administrator, liquidator, receiver or similar, an arrangement, official management, winding-up, dissolution, cessation of business, assignment for the benefit of creditors, any scheme, composition or arrangement with creditors or any other similar event, including becoming insolvent within the meaning of the Corporations Act 2001;

**Large Retail Customer** means a customer that consumes or is expected to consume more than 40 MWh of electricity per annum at a Site in Victoria or more than 100MWh per annum at a Site in NSW or other States or Territories that have adopted the National Energy Customer Framework;

**Metering Charges** means the fees and charges charged by Next Business Energy for providing or arranging for the installation, replacement and maintenance of a meter or meters at a Site and arrangements for the collection and processing of metering data in accordance with the Energy Laws;

**Minimum Period** means the fixed benefit period specified in the Customer Agreement Form during which the current pricing is available to the Customer under the Contract;

**Site or Sites** means the site or sites specified in the Customer Contract, where the Customer accepts the supply of electricity under the Contract.



**Next Business Energy Pty Ltd**

ABN 91 167 937 555

T: 1300 GO NEXT (46 6398)

F: 1300 365 009

E: [info@nextbusinessenergy.com.au](mailto:info@nextbusinessenergy.com.au)

**Sydney**

Level 33, 264 George St

Sydney NSW 2000

T: 02 8075 0500

F: 02 8075 0550

**Melbourne**

Level 1, 180 Flinders St

Melbourne VIC 3000

T: 03 8535 2500

F: 03 8535 2550

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[www.nextbusinessenergy.com.au](http://www.nextbusinessenergy.com.au)