



Market Contract Conditions

(Victoria and South Australia)



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The meaning of words printed like *this* and some other key words is explained at the end of these contract conditions (“contract conditions”) (see condition 17.1).

1. Application of Contract Conditions

- 1.1 These contract conditions apply:
- a. if you have agreed to purchase both electricity and gas from us, as two separate market contracts between you and us for the supply of electricity and gas respectively; or
 - b. if you have agreed to purchase one of electricity or gas from us, as a market contract between you and us for the supply of that form of energy.
- 1.2 If a condition relates to electricity or gas only, then it does not apply in a contract for the other form of *energy*.

2. About the Market Contract

Content

- 2.1 The market contract for the sale and supply of *energy* applies to *small customers* of Simply Energy. The market contract consists of:
- a. these contract conditions;
 - b. the *schedule* (including a price list if relevant);
 - c. in the case of voice recorded contracts, the verbal consent, as recorded;
 - d. any disclosure statement or price fact sheet; and
 - e. our privacy statement.
- 2.2 If you choose to pay your bills by an *automatic payment option*, instalment plan, payment card or other available payment option, then the additional conditions (if any) relating to that payment option will also apply.

Formation

- 2.3 Unless the *schedule* specifies a later date, the market contract is entered into by you when you consent to our offer to supply *energy* to you by either signing and returning the *schedule* to us before the relevant offer expiry date or giving us your verbal consent to the relevant offer.

- 2.4 Provided that we have not commenced the supply of *energy* to the *premises*, if:
- a. we are not satisfied with the information you provide to us;
 - b. we are not satisfied with your supply, connection or metering arrangements (including not being satisfied that we are authorised to supply energy to the premises); or
 - c. we determine that you are not eligible to accept the offer contained in the *schedule* (for example, you are not a *small customer*), we may immediately terminate the market contract by notice to you. If we terminate the market contract under this clause, neither you nor we need to compensate the other as a result of the termination.

Cooling-off period

- 2.5 You may cancel the market contract without penalty by giving us a written notice within the cooling-off period, being 10 *business days* from the latest of:
- a. the day you entered into the market contract;
or
 - b. the day you received the *verbal consent documents*; or
 - c. any other date specified in the *schedule*.
- If you cancel the market contract during the cooling-off period, the market contract is rescinded and you and we must comply with the *energy laws* in respect of that cancellation.
- 2.6 If you do not cancel the market contract during the cooling-off period, all rights and obligations under it commence on the expiry of this cooling-off period.

Term

- 2.7 The *term* of the market contract begins on the date we commence supplying *energy* to you and continues for the period stated in the *schedule*.

Extending the term

- 2.8 In accordance with the *energy laws* before the end of the *term*, we will send you a notice advising you of your *energy* supply options after the *term* expires. In that notice we may include an offer containing a proposal to vary the market contract by extending the *term* and the conditions of that extension. If you do not reject the offer within the period set out in the notice, you are taken to have accepted the offer and the market contract will be varied accordingly. If you give us a notice rejecting the offer, the market contract will terminate at the end of the *term*.
- 2.9 If the *term* ends without being extended or terminated under condition 2.8, then the market contract is to continue indefinitely on the same terms (including *charges*) until it is varied by agreement or is terminated.
- 2.10 If the contract has continued indefinitely after the end of the *term* under clause 2.9, then you or we may terminate the market contract by giving the other party at least 28 days' notice.

Related documents

- 2.11 We will provide you with copies of our retail customer charter, our privacy statement (included at the end of this booklet), these contract conditions, the *schedule* and any disclosure statement in accordance with the *energy laws*.
- 2.12 In addition to these contract conditions, a range of *energy laws*, codes, guidelines and our retail licences govern your *energy* supply.
- 2.13 Your and our rights and obligations under the market contract are subject to, and supplemented by, the terms of the *energy laws*. The market contract should be read in conjunction with the *energy laws*.
- 2.14 In certain circumstances, we may be permitted to depart from the terms of the *energy laws*. If we do so, these departures will be included as special conditions in the *schedule* and we will obtain your consent to those departures in accordance with the *energy laws*.

Multiple premises and portability

- 2.15 If you ask us to:
- a. extend the market contract to additional *premises*;
 - or

- b. transfer the market contract to your new *premises* because you are moving, and the additional or new *premises* are in the same State as the existing *premises*, then:
- c. we may offer to incorporate those *premises* into your market contract (any such offer will specify the charges and other terms and conditions applicable to that *premises*);
- d. if you accept that offer, your market contract is taken to be amended accordingly; and
- e. if your market contract then applies to more than one *premises*, the rights under conditions 7 and 8 may be exercised in respect of any one or more of them without affecting the continued application of your market contract to any other remaining *premises*.

3. Energy Supply

Our obligations

- 3.1 In return for the amounts you agree to pay us under the market contract, we agree to:
- a. supply *energy* to the *premises* in accordance with the market contract, although your distributor physically delivers *energy* to your *premises*;
 - b. pay *market charges* and *network charges*;
 - c. if requested and where applicable, use our *best endeavours* to procure *connection services* from your distributor for the *premises* in accordance with the energy laws; and
 - d. comply with all relevant requirements imposed on us by the *energy laws*.

Commencement of supply

- 3.2 The supply of *energy* under the market contract starts (subject to conditions 2.4 and 2.5):
- a. if you are transferring from another *retailer*, on the *effective transfer date* notified to us by the *market and system operator*; or
 - b. if the supply of *energy* to the *premises* involves providing a new *connection service*, when the new *connection service* is provided and the *supply point* is operational.

Transfer

- 3.3 If you are currently with another *retailer* and are transferring to us, you acknowledge that by entering into the market contract with us, you are providing your explicit informed consent to the transfer.
- 3.4 You will continue to be supplied by that *retailer* until the transfer to us is complete.

New connection

- 3.5 Once you have made an application to us for connection of *energy* to your *premises*, we will where applicable arrange the connection as soon as practicable, and will contact your distributor no later than the next *business day* after your application to us (unless you make your own arrangements).

Description, delivery and quality of energy

- 3.6 As your *retailer*, we are responsible for purchasing *energy* on your behalf. We do not control the delivery, quality or reliability of *energy* supply to the *premises*. This is the responsibility of the distributor who physically delivers *energy* to the *supply point*, not us.
- 3.7 Accordingly, the *energy* delivered to the *premises* may be subject to:
- for electricity - fluctuations in voltage, wave or frequency of electricity; and
 - for gas - variation or deficiency in quality or pressure.
- 3.8 Your supply of *energy* may also be subject to interruptions and may not be continuous due to many factors, including factors relating to your distributor's network, or factors that are beyond our, or your distributor's, control, for example:
- the distributor or the *market and system operator* interrupts supply to the *premises*;
 - the distributor's network, or a network to which the distributor's network is connected, fails; or
 - there are insufficient quantities of *energy* to meet the needs of all users.

4. Your Obligations

General

- 4.1 Under the market contract, you must:
- a. comply with the *energy laws*, including any relevant electricity and gas distribution codes and standards relating to *energy* (including the distributor's standards);
 - b. ensure that the distribution system and the reliability and quality of *energy* supply to other customers is not adversely affected by your actions, omissions or equipment;
 - c. notify us as soon as possible if your circumstances or any information relating to the *energy* supply under the market contract change;
 - d. if we supply you with gas and you are a residential customer, not use gas for non-domestic purposes other than for home office purposes;
 - e. not use *energy* in a manner which interferes with the distribution network or supply from that network;
 - f. not allow *energy* supplied to you under the market contract to be used other than at the *premises* or use *energy* at the *premises* supplied from another address;
 - g. not use *energy* supplied to you for a purpose inconsistent with the category of supply specified in the *schedule*;
 - h. not resupply *energy* supplied to you under the market contract unless we authorise such resupply in writing or unless permitted by law;
 - i. if we supply you with electricity, notify us if there is a life support machine in use at your *premises*; and
 - j. if you are a business customer, take reasonable steps to prevent loss on your side of the *supply point* which may be caused by any changes in the quality or reliability of *energy* supply.

Meters and supply points

- 4.2 To facilitate the supply of *energy* to the *premises*, you agree to:
- a. make available sufficient land at the *premises* (to our reasonable satisfaction) to situate the meter and *supply point* (and any associated equipment) safely;
 - b. protect and not disconnect, by-pass, interfere with or damage the meter or *supply point* at your *premises* and promptly notify us of any problems with them;
 - c. give the meter readers, *authorised persons* and the distributor, information and safe, convenient and unhindered access at all reasonable times to the meter, the *supply point* and other related equipment at the *premises* for any reasonable purpose required; and
 - d. comply with any directions from us or the distributor about the meter or the *supply point*.

Safety

- 4.3 To enable us to provide you with a reliable and safe supply of *energy*, you must at all times:
- a. maintain all wiring, pipes, appliances and other *energy* equipment at the *premises* in a safe condition;
 - b. allow only accredited electricians and registered plumbers or gas fitters to perform any maintenance on your *energy* appliances and/or connections;
 - c. keep all vegetation, structures and vehicles at your *premises* clear of all electricity lines, gas installations and related equipment; and
 - d. advise us or your distributor of any matter (including changes to your *energy* equipment) that may threaten the health or safety of another person or threaten the integrity or safety of the distribution network.

Emergencies

- 4.4 In the event of an emergency, you agree to comply with any directions given by your distributor or us in accordance with any *energy laws*.

Supply to non-residential premises

- 4.5 If the market contract is for the supply of electricity and the *premises* are not used as a residence, you must:
- a. within a reasonable time after we request, give us an annual forecast of your electricity demand for the *premises*; and
 - b. if you anticipate a material change in your electricity demand, give us at least 20 *business days* advance notice (you may also need to notify your distributor).
- 4.6 If your needs change or your demand for *energy* requires extra or replacement meters to be installed, you agree to meet the reasonable costs of installing, maintaining and reading them and any adjusted *metering charges*.

5. Charges

Charges

- 5.1 You agree to pay us the *charges*.
- 5.2 The *schedule* sets out the rates you will be charged based on *energy* consumed at the *premises*. These rates comprise the following components:
- a. the amount we charge for *energy*;
 - b. *metering charges*;
 - c. *market charges*;
 - d. *network charges*; and
 - e. for electricity only, *emission charges*.
- 5.3 The *schedule* may indicate that some rates (such as off peak rates) may not be available, depending on your meter. In those cases, we determine, by reference to your meter, as soon as practicable after the market contract commences, which of these rates apply. Your first bill will indicate the rates that apply.
- 5.4 If the *schedule* includes a *charge* that is a daily *charge*, we will bill you for that *charge* for each day of the *term*.
- 5.5 Any other *charges* are separately identified in the *schedule* or these contract conditions.
- 5.6 You are not liable to pay for any *charges* unless the amount of, or basis for calculating, the *charge* is set out in the market contract.

Varying charges

5.7 We may vary the rate or amount of any charges or impose any further charge in the manner set out in these contract conditions or the *schedule*. Unless the *schedule* indicates otherwise:

- a. we may pass through to you the effect of variations applicable to *metering charges*, *market charges*, *network charges* and *emissions charges*. We may do this by varying the amounts you must pay us in connection with these items if they are varied by the distributor, *market and system operator* or other relevant third party, or we reasonably determine or estimate that the cost to us of any of them has varied;
- b. we may vary a daily rate or other *charge* shown in the *schedule* if any component that makes up that *charge* is varied; and
- c. we may vary the rate or amount of any *charges* or impose any further *charge*:
 - i. if there is a change to the *loss factors*;
 - ii. if there is any change in law;
 - iii. if the metering for the *premises* is changed;
 - iv. to the extent permitted by law and in respect of the supply of gas only, if the cost to us of purchasing, transporting, selling or supplying gas has increased due to an *upstream event* (including managing, mitigating or minimising the impact and price risks of that event). We will allocate the increased costs to our relevant customers on a pro-rata basis, based on the volume of gas purchased in relation to those relevant customers;
 - v. in respect of the supply of gas only, once during the second half of each calendar year, in accordance with the following formula:

$$A = \frac{B \times C}{D} \quad \text{where:}$$

D

A = the applicable charge payable from and including a particular date after the application of this formula

B = the applicable charge payable immediately before that date

C = the *CPI* for the last December quarter before that date

D = the *CPI* for the second last December quarter before that date; or

- vi. to the extent permitted by law and in respect of the sale of electricity only, if the cost to us of the electricity we purchase for sale to you increases as a result of an electricity generator exercising any of its rights under hedging cover or similar arrangements with us (for example due to a generator force majeure event (such as an act of God, terrorism or, in certain circumstances, unexpected significant plant and equipment failure) or the pass through of additional costs a generator incurs as a result of a change in law, taxes, subsidies, *market and system operator* fees or transmission fees).
- 5.8 We will notify you, in accordance with any applicable *energy laws*, of variations to *charges* in writing (which may be via a bill message).

Other charges

- 5.9 You also agree to:
- a. pay us the reasonable costs we incur if you do not give access to the *meter readers* or you request an *unscheduled* meter reading;
 - b. pay us *GST* at the prevailing *GST* rate on any taxable supplies made by us in connection with the market contract;
 - c. pay any additional *charges* set out in the *schedule* which we are permitted to impose;
 - d. reimburse us (and pay us in accordance with the market contract) for *other distributor charges*;
 - e. pay for any services you request from us (including meter testing) unless the *energy laws* require us to provide that service free of charge or to reimburse you for the cost of that service;
 - f. pay us any administration fee set out in the *schedule*;
 - g. pay us any merchant service fees we incur when you use a payment option (but only where we have given you prior notice that we will recover this fee from you if you use this payment option); and
 - h. to the extent permitted by *energy laws*, to pay us any late payment fee set out in the *schedule*, and/or interest on any late payment fee set by us from time to time in accordance with any *energy laws*.

6. Billing and Payment

Metered consumption

6.1 We bill you by applying, on and from the date we start supplying you *energy* under the market contract, the applicable rate to the quantity of *energy* consumed at the *premises* based on an actual reading of the meter at the *supply point*. We will use our *best endeavours* to ensure that metered consumption is measured at least once in any 12 month period.

Change of charges during a billing period

6.2 Where charges vary during a *billing period*, we will calculate your bill on a pro rata basis using:

- the old *charges* up to and including the date of change; and
- the new *charges* from the date of change to the end of the *billing period*.

Estimated consumption

6.3 If we:

- do not have metered data from an actual meter reading;
- are unable reasonably or reliably to base your bill on a reading of your meter; or
- are authorised to do so under the *energy laws*, we may base the bill on an estimate of the *energy* you have consumed for a relevant period determined in accordance with the *energy laws*.

6.4 If we subsequently obtain a meter reading or more reliable data, we will adjust your next bill as appropriate.

Form

6.5 We will provide you with a bill which complies with the *energy laws*. It will include:

- the amount you must pay for *energy* consumed and services provided;
- a graph to help you understand your *energy* usage;
- the pay-by date;
- payment options; and
- contact numbers for enquiries and reporting faults and emergencies.

Frequency

- 6.6 We will send you a bill as often as specified in the *schedule*.

Payment

- 6.7 You must pay your bills by the pay-by date specified on them (irrespective of the *billing period*), which will not be less than 12 *business days* from the date the bill is issued. Payments due on a non-*business day* may be paid on the next *business day*. Unless you use an *automatic payment option*, your bill is not paid until we actually receive the funds.
- 6.8 You may pay us in advance using any of the available payment options. We do not pay interest on (or refund before the contract ends) amounts paid in advance. For *security deposits*, refer to condition 9.

Payment options

- 6.9 You may pay your bills by any payment option set out on your bill from time to time, including an *automatic payment option*, cheque or payment in person at Australia Post.
- 6.10 We will offer you the option of paying on an instalment plan where we are required to do so under the *energy laws*.

Bill reviews

- 6.11 You may request a review of a bill. The review will be undertaken in accordance with the *energy laws*. You must still pay that proportion of the bill required by the *energy laws*.
- 6.12 If the review shows the bill is correct, you must pay for the cost of any meter test or check of a meter reading or data (if you requested one) and pay any amounts outstanding. Should the review disclose an error, we will adjust the bill (subject to conditions 6.16 to 6.18).

Undercharging and overcharging

- 6.13 If we have undercharged you or not charged you at all, we may recover this amount from you in accordance with the *energy laws*. Unless you have used *energy illegally*, the *energy laws* limit the period for which we can recover undercharged amounts. Please see our Retail Customer Charter for more details.

- 6.14 If you request, we must provide a payment arrangement for you to pay the undercharged amount over a period equivalent to the period during which the undercharging occurred.
- 6.15 If you are overcharged, we will inform you within 10 *business days* of the date that we become aware of it and either repay the overcharged amount according to your reasonable instructions or credit the amount to your next bill as required under the *energy laws*.

Overdue amounts

- 6.16 You must inform us if you are experiencing payment difficulties or if you require payment assistance. We may be able to assist you (see condition 6.20).
- 6.17 If we do not receive payment for a bill by the pay-by date (a payment later dishonoured or reversed is not a payment), we may:
- a. if permitted by *energy laws*, charge you a late payment fee set out in the *Schedule*, and/or interest set by us from time to time in accordance with any *energy laws*;
 - b. if permitted by *energy laws*, require you to pay us our reasonable costs in connection with any dishonoured or reversed payments (which occur through your fault), in addition to the original payment amount; and
 - c. take all steps necessary (including legal proceedings) against you to recover the overdue amounts and our costs of doing so.
- 6.18 However, before taking these steps we will comply with the requirements under the *energy laws* in relation to payment difficulties. Our Retail Customer Charter provides more details.

Shortened collection cycles

- 6.19 If you are consistently late paying your bills and we have complied with the requirements of the *energy laws*, we may place you on a shortened collection cycle.

Payment difficulties and assistance

- 6.20 If you are experiencing difficulties paying your bills, we can offer you assistance, including:
- a. advice about independent financial counselling;

- b. information about *energy* efficiency;
- c. information about various government assistance and concessions schemes; and
- d. in some cases, the option of an instalment plan depending on your eligibility and in accordance with the *energy laws* (see condition 6.21).

Instalment plans

- 6.21 If you are an eligible residential customer, we offer you the ability to:
- a. pay your bills by regular instalments in advance; or
 - b. pay any overdue amounts and future bills by regular instalments.
- 6.22 We are not obliged to provide small business customers with an instalment plan, but you may request us to consider this option and we may impose an additional *charge* if we accept your request.
- 6.23 You must pay each instalment amount by the agreed pay-by date. Unless you use an *automatic payment option*, an instalment is not paid until we actually receive the funds.

7. Terminating the Market Contract

Termination by us

- 7.1 We may terminate the market contract by giving you notice in writing if:
- a. we exercise our right to arrange disconnection of the *premises* under condition 8.2 and you are no longer entitled to be reconnected;
 - b. you enter into a new contract with us, or transfer to another *retailer*, for the *premises*; or
 - c. you are not, or cease to be, a *small customer*.
- 7.2 If the market contract is to be terminated because you are not, or cease to be, a *small customer*, and you have not entered into and satisfied all requirements for supply to commence under a new *energy supply* contract with us or another *retailer*, then from that date specified in the notice of termination, we agree to continue arranging supply on the same conditions as the market contract except that, by notice to you, we may vary the, or impose additional, *charges*. This condition survives termination of the market contract.

Termination by you - general

- 7.3 You must give us notice in accordance with the *energy laws* if you wish to terminate the market contract. Our Retail Customer Charter sets out the minimum period of notice. (If you are moving out of your *premises*, refer to conditions 7.6 to 7.8).
- 7.4 If you do not give us the required notice and we have not entered into a new *energy* supply contract for the *premises*, you will continue to be liable for all costs incurred until (whichever occurs first):
- a. you have given us the required notice of termination; or
 - b. the supply of *energy* to the *premises* is disconnected or transferred to a new *retailer*.
- 7.5 Except as otherwise provided in these contract conditions and the *energy laws*, your transfer to another *retailer*, entering into a new contract with us, or moving out of the supply address, will constitute a termination of the market contract by you.

Termination by you - moving out of the premises

- 7.6 You must give us advance notice of the date on which you intend to move out of your *premises*, and a forwarding address to which the final bill may be sent. The amount of advance notice required is set out in our Retail Customer Charter.
- 7.7 Unless we agree to add your new *premises* to the market contract or transfer the market contract to your new *premises* (see clause 2.15):
- a. you terminate the market contract by moving out of your *premises*; and
 - b. you may be liable to pay an early termination fee even if you give us the required notice (see clause 7.10).
- 7.8 If you do not give us the required notice, you will be liable for *charges* at those *premises* until (whichever is the earliest):
- a. another customer enters into an energy supply contract for the *premises*, which has become effective;
 - b. another *retailer* becomes responsible for the supply of *energy* to the *premises*;
 - c. the *premises* is disconnected;
 - d. we obtain a final meter read before the *premises* is disconnected;

- e. at the end of the required notice period once you do give us notice that you are or have moved out; or
- f. if you have been evicted or forced to move out, you give us notice that you have left the *premises*.

Early termination fee

- 7.9 If:
- a. you terminate the market contract; or
 - b. we terminate the market contract under clause 7.1 (such as if you are in default), before the end of the *term*,
- then (unless prohibited by *energy laws*) you must pay the termination fee specified in the *schedule*. This fee is payable even if you give us the notice required.
- 7.10 The termination fee is payable within 15 *business days* of us notifying you of the amount payable.

Termination date

- 7.11 Termination under this condition 7 will not be effective until (whichever occurs last):
- a. expiry of the notice period (if any) set out in the notice of termination;
 - b. a new *energy* supply contract for the *premises* takes effect between you and us (if applicable);
 - c. another *retailer* becomes responsible for the supply of *energy* to the *premises* (if applicable); or
 - d. if the *premises* are disconnected, when you have no right of reconnection.

Effect of termination

- 7.12 Termination, or disconnection of supply because of it, does not affect our, or your, right to enforce any right arising before or on termination.

8. Disconnecting and Reconnecting Supply

Your right to disconnect

- 8.1 You have a right to request disconnection. Once you ask us to disconnect, we arrange disconnection of the *premises* through the distributor in accordance with your request.

Our right to disconnect

- 8.2 Subject to condition 8.3, and provided that we comply with the *energy laws*, we may request the distributor to disconnect the *premises*:
- if you fail to pay an amount owing to us by the relevant pay-by date;
 - if you refuse, when required by us, to provide a *security deposit*;
 - if you deny access to your meter for the purpose of a reading for three consecutive *billing period* cycles;
 - if you are using *energy* illegally (see condition 4.1); or
 - on other grounds permitted by the *energy laws*.
- 8.3 We will give you written notice of our intention to disconnect your supply, in accordance with *energy laws*, unless disconnection is due to an emergency or for health and safety reasons or illegal use of *energy*.
- 8.4 You must co-operate with and assist us, the distributor and authorised persons in respect of any disconnection.

Restriction on disconnection

- 8.5 We must not arrange to disconnect your supply of *energy* while:
- an application is pending from you for a relevant rebate, concession, grant or relief scheme (you agree to notify us if this is the case), or assistance under any payment plan operated by us, that is available to our customers; or
 - a life support system that relies on electricity for its operation is in use at the *premises*. You agree to notify us if this is the case.
- 8.6 We must not arrange to disconnect supply in relation to any non-payment by you while:
- an amount payable is less than any amount specified under *energy laws* from time to time;
 - you have an unresolved complaint about the bill with the *Ombudsman* or another external dispute resolution body; or
 - the *charge* outstanding is not for the supply or sale of *energy*.
- 8.7 We will only arrange disconnection of your supply at times, and on days, and within the period permitted by *energy laws*.

No obligation to supply

- 8.8 Nothing in this condition 8 affects the right or obligation of any person under *energy laws* to refuse to supply, or to arrange for the supply of, *energy* to the *premises* to be disconnected.
- 8.9 While any disconnection or interruption continues, our obligation to supply the *premises* with *energy* is suspended.

Disconnection not termination

- 8.10 Disconnection of the *premises*, for any reason, does not constitute a termination of the market contract, nor does it prevent us from terminating the market contract under clause 7.

Reconnection

- 8.11 We will arrange for you to be reconnected where required by the *energy laws*.
- 8.12 If your supply has been disconnected as a result of any of the following breaches by you:
- non-payment of a bill;
 - your meter not being accessible;
 - you obtaining supply otherwise than in accordance with the *energy laws*; or
 - refusing to provide a *security deposit*, and you:
- rectify this breach within the time specified and in accordance with the *energy laws*;
 - comply with all other *energy laws*; and
 - pay any associated *charges* (including reconnection *charges*), we will arrange for you to be reconnected, upon your request, in accordance with the *energy laws*.

9. Security Deposits

- 9.1 We may require you to provide us with a *security deposit* in accordance with the *energy laws* if:
- you owe money to other *retailers* which is more than the amount specified under the *energy laws*;
 - you have illegally used *energy* in the past 2 years (see condition 4.1);
 - you have not provided acceptable identification to us;
 - you have an unsatisfactory account payment record or credit rating; or
 - we are otherwise permitted under the *energy laws*.

- 9.2 The amount of the *security deposit* will be calculated in accordance with the *energy laws* (including any increase in the deposit).

Time for payment

- 9.3 You agree to provide the *security deposit* within 10 days after we request it.

Content

- 9.4 Cash or securities provided as a *security deposit* are to be transferred to us absolutely and not by way of security.

Use of the deposit

- 9.5 We may apply a *security deposit* against, or draw on it for, any amount you owe us under the market contract in accordance with the *energy laws*, but not otherwise.
- 9.6 We may set-off against amounts you owe us any money we owe you unrelated to any *security deposit*, in accordance with the *energy laws*. Application of a *security deposit* or the set-off of any amount we owe you does not affect any other right we have against you for amounts you owe us.

Return of the deposit

- 9.7 If you pay your bills by their pay-by date for a minimum period specified by the *energy laws*, we will either credit the amount of the *security deposit* to your next bill or return it according to your reasonable instructions, together with accrued interest (if applicable), in accordance with the *energy laws*.

10. Provision of Information

- 10.1 On request, we will provide you with:
- a. general advice about energy efficiency and how to reduce your residential *energy costs*;
 - b. advice about how, from whom and at what estimated cost, a residential customer may arrange for an *energy audit of premises*;
 - c. advice on the typical running costs of major domestic appliances;
 - d. historical billing information in accordance with the *energy laws*;

- e. further copies of our retail customer charter, privacy statement, these contract conditions, the *schedule* and any disclosure statement (we may charge a reasonable fee for doing so, where permitted); and
- f. a copy of other documents as required by the *energy laws* (in large print if required). If permitted, we may charge a reasonable fee for doing so.

11. Confidentiality and Privacy

- 11.1 All the details of the market contract are strictly confidential. You and we must not disclose them to another person unless:
 - a. you or we have the consent of the other;
 - b. you or we are required to do so by law;
 - c. the details have become publicly available; or
 - d. as provided in our privacy statement.
- 11.2 These obligations on confidentiality continue after the market contract ends or is terminated.
- 11.3 We comply with the *Privacy Act 1988 (Cth)*. Details about our commitment to privacy are set out in our privacy statement.

12. Liability

Responsibility

- 12.1 We are not responsible for, and you accept all risks in respect of, the control and use of electricity on your side of the *supply point* and the control and use of gas on the *premises*.

Uncontrollable events

- 12.2 Your or our obligations under the market contract are suspended to the extent to which they are affected by an event outside your or our control (this does not include an inability to pay money).
- 12.3 The person affected must give prompt notice of the event outside their control, to the other, in accordance with any applicable *energy laws*.

No warranties

- 12.4 Nothing in the market contract is to be taken to exclude, restrict or modify any condition or warranty that we are prohibited by law from excluding, restricting or modifying. However, all other conditions and warranties, whether or not implied by law, are excluded.

12.5 The Trade Practices Act 1974 (Cth) and other laws imply conditions and warranties into certain types of contracts for the supply or sale of “goods” and “services” (within the meaning of those laws). If any condition or warranty is implied into the market contract under the Trade Practices Act 1974 (Cth) or other laws, then our liability (if any) for breach of that condition or warranty in connection with any goods or services we supply under the market contract, is limited, as far as the law permits and at our option, to resupplying the goods or services (or paying for their resupply).

Liability

12.6 Subject to conditions 12.4 to 12.5, and as far as the law permits, we are not liable (under contract, tort or any other basis) for any loss or damage you suffer:

- a. for electricity – from any fluctuations in voltage, wave or frequency;
- b. for gas – variation or deficiency in quality or pressure;
- c. in either case, due to:
 - interruptions, restrictions or discontinuity of supply of *energy* permitted under the market contract or any contract with your distributor;
 - acts or omissions of your distributor (whether negligent or deliberate); or
 - anything which is beyond the control of either your distributor or us.

Indemnity

12.7 To the extent permitted by law, you indemnify *us* against (and therefore must pay *us* for) loss or damage arising (other than as a result of the negligence of us, your distributor or a *meter reader*) in connection with:

- a. in the case of electricity - the control and use of electricity on your side of the *supply point*;
- b. in the case of gas -
 - any failure by you to comply with any of your obligations under the market contract;
 - any damage to the *supply equipment*; or
 - the control and use of gas on the *premises*.

12.8 The indemnities in the market contract carry on after it ends.

- 12.9 Any limitations of liability or immunities granted under the National Electricity Law or the *energy laws*, are not limited in their operation or application by anything contained in the market contract.

Excused from compliance with laws

- 12.10 Notwithstanding our obligation to comply with *energy laws*, if we or your distributor are excused from strict compliance with any aspect of those laws or the application of those laws to us, or your distributor by the regulatory authority responsible for enforcing that aspect of the energy laws, we are not obliged under the market contract to comply with that aspect of the *energy laws* to the extent we are so excused.
- 12.11 For the purposes of the market contract, we will not have breached any *energy laws* if we have, or your distributor has, acted under the direction of a relevant regulatory authority or in accordance with the *terms* of any relief from compliance granted in writing by a regulatory authority.

13. Interruptions

- 13.1 You agree that the supply of *energy* to the *premises* may be interrupted, discontinued or restricted:
- a. when permitted or required under law or court order;
 - b. for a reason beyond our control;
 - c. by your distributor or the *market and system operator*,
 - d. when there are insufficient quantities of *energy* or system capacity to meet the needs of all users;
 - e. for repairs, testing, maintenance or other works; and
 - f. during an emergency or for reasons of public health or safety or the protection of any person or property.
- 13.2 In these circumstances, you agree immediately to cease or reduce your *energy* consumption at the *premises* and to comply with the directions of your distributor or us.

- 13.3 Where reasonably possible and in accordance with *energy laws*, we or your distributor will give you prior notice of interruptions. Notices or directions given under this condition 13 need not comply with condition 15.1.

14. Last Resort Arrangements

- 14.1 You may transfer or be transferred as a customer to another *retailer* if *last resort supply arrangements* are implemented with respect to you. For this purpose, we will provide your personal information to that *retailer*.
- 14.2 The market contract automatically terminates when that transfer to another *retailer* becomes effective. We are not entitled to any compensation or other payment from you in respect of such a transfer, including the cost incurred by us in relation to the transfer.

15. General Provisions

Notices

- 15.1 Unless otherwise stated, notices by either party may be given by hand, fax, or post to the address or number of the other party set out in the *schedule*.
- 15.2 If a notice is sent by post, it is taken to be received 3 business days after posting unless received earlier.
- 15.3 Changes to notice details must be notified in writing to the other party.

Variations

- 15.4 Any variations to the market contract, or any waiver of any rights, must be agreed by both us and you in writing, except for variations to *charges* (which are expressly provided for elsewhere in the market contract) or as set out below.
- a. You agree that we may, by giving notice to you, vary the market contract to reflect any laws, codes, regulatory guidelines or instructions by the relevant regulator, which are amended or introduced after the contract commences.

- b. You agree that we may, by giving notice to you, make variations to the market contract which are reasonably necessary to achieve optimal business efficiency and performance, provided that such changes do not materially alter your rights or obligations under this agreement to your detriment.
- 15.5 You agree to comply with the market contract as amended by that notice. We will not vary the market contract under either condition 15.4 a. or b. so that it is inconsistent with the *energy laws* or where the *energy laws* require us to get your explicit informed consent to the variation.

Assignments and transfers

- 15.6 You may assign or create an interest in your rights under the market contract only with our prior written consent.
- 15.7 We may assign or otherwise create an interest in our rights under the market contract with your consent. In addition, you agree that we may transfer our rights or obligations under the market contract to another person as part of the transfer of all or substantially all of our retail sales business in the state in which your *premises* is located. You consent to us doing so and appoint us and any person we authorise to be your attorney to sign any document (including a deed of assignment or novation), or do anything necessary to effect the transfer of our rights or obligations under the market contract.

Governing law

- 15.8 The market contract is governed by the law in force in the state or territory in which your *premises* are located.

16. Complaints and Disputes

Complaint handling

- 16.1 We will consider any complaint made by you in accordance with the requirements of the *energy laws*. A complaint may be in writing or made orally and must include the reasons for seeking a review of our actions.

Response to a complaint

16.2 We must respond to your complaint within the time period specified in the *energy laws*.

Escalation of a complaint

16.3 If you are not satisfied with our response to a complaint, you may request your complaint to be raised to a higher level in our organisation.

Referring a complaint to the ombudsman

16.4 You may refer any complaint or dispute arising under the market contract, or our conduct generally, to the Ombudsman, or ask us to do so in your application to us for review. The Ombudsman's services (available to you without cost) may be used only if:

- a. you have first made a complaint to us and sought review to a higher level under condition 16.3 and you are not satisfied with our further response; and
- b. you notified us of your complaint within 1 year of you becoming aware of the event giving rise to the complaint.

16.5 In any dispute relating to services provided under the market contract, we agree to abide by the decision of the Ombudsman. You have the option of accepting the Ombudsman's decision, but if you do so, the Ombudsman's decision is final and binding on you and us.

17. Interpretation

17.1 The following words have these meanings:

authorised person means a person authorised by us to do anything on our behalf under the market contract;

automatic payment option means an option of paying automatically from your credit card or directly debiting your nominated financial institution account;

best endeavours in relation to a person, means the person must act in good faith and do what is reasonably necessary in the circumstances;

billing period means the period for which we issue a bill for energy supplied to you under the Market contract;

business day means a day other than a Saturday, Sunday or gazetted public holiday in the relevant Australian state, territory or region where your relevant supply *premises* is located;

charges means the amounts payable by you under the Market contract;

connection service means the service of arranging, establishing or increasing the capacity of, the connection of the *premises* to the distributor's distribution system and includes maintenance of the *supply point*;

CPI for any period means whichever we choose of the Consumer Price Index (All Groups) for Sydney and the Consumer Price Index (All Groups) for the weighted average of all capital cities published from time to time by the Australian Bureau of Statistics or, if neither of these indices is available, another similar index determined by us;

distribution loss factor means, at any time, the multiplier then prevailing set by the distributor or estimated by us, required to adjust electricity consumption for distribution network losses relevant to the *premises*;

effective transfer date means the date on which the meter registered for your *supply point* is effectively allocated by the *market and system operator* to us;

emissions charges means the lesser of:

- a. the amount we reasonably estimate as the cost to us of meeting our *emissions obligations*; or
- b. any charge imposed on us if we do not, or are not able to, meet our *emissions obligations*, in connection with electricity consumed at the *premises*.

emissions obligations means any obligations imposed on us from time to time by any legislative, regulatory or voluntary regime for the direct or indirect purpose of reducing levels of greenhouse gas emissions or for increasing the uptake of renewable electricity, including obligations under the Renewable Energy (Electricity) Act 2000 (Cth) or the conditions of any retail licence held by us;

energy means either electricity or gas, depending on which is the subject of the market contract;

energy laws means the *National Electricity Rules*, all applicable pipeline access arrangements, our retail licence, all regulatory documents referred to in that licence and (as applicable):

- a. for South Australia, the Electricity Act 1996 (SA) and related regulations, the Gas Act 1997 (SA) and related regulations, the Energy Retail Code and any other laws relating to the supply of *energy*; or
- b. for Victoria, the Electricity Industry Act 2000 (Vic) and related regulations, the Gas Industry Act 2001 (Vic) and related regulations, the Electricity Safety Act 1998 (Vic) and related regulations, the Gas Safety Act 1997 and related regulations, the Energy Retail Code and any other laws relating to the supply of *energy*;

GST means a goods and services tax or similar tax;

loss factors means the product of the *transmission loss factor* and the *distribution loss factor* (expressed as a percentage);

market and system operator means the body that administers the market for wholesale trading in *energy* in the area which encompasses the *premises*;

market charges means all participant fees, ancillary service *charges*, system security fees and other *charges*, levied on us in connection with *energy* consumed at the *premises*, as determined by the *market and system operator*;

market rate means the rate we determine from time to time and notify to you as being our market rate applicable to the rates identified in the *schedule*;

meter reader means a person authorised to read your meter under the market contract;

metering charges means the fees and *charges* we incur in arranging and maintaining metering services for the *premises*;

metering services includes the installation and maintenance of metering equipment at the *supply point* and collection and processing of the metering data in accordance with the *energy laws* and our requirements;

National Electricity Rules has the same meaning as given in the National Electricity Law;

network charges means the amounts charged by the distributor in connection with *energy* consumed at the *premises*;

Ombudsman means the relevant *energy* ombudsman or regulatory body responsible for *energy* customer complaints in the relevant Australian state or territory;

other distributor charges means any amounts charged to us by your distributor in relation to your contract with us or the *premises*, including *charges* for *connection services* to the *premises*, disconnection fees and reconnection fees, but does not include *network charges*;

premises means the *premises* for *energy* supply specified in the *schedule*. If there is more than one, it refers to all of them together and each of them separately (as the context requires);

retailer means a holder of a retail licence under the relevant *energy laws*;

schedule means either the signed market offer or, in the case of voice recorded contracts, the verbal contract confirmation, as applicable;

security deposit (also known as a refundable advance) means cash or other security deposit, bank guarantee, parent guarantee, letter of credit or other form of credit support;

small customer means:

- a. for electricity, a customer that consumes or is expected to consume electricity at their *premises* at the rate of less than or equal to 160MWh per year; and
- b. for gas, a customer that consumes or is expected to consume gas at their *premises* at the rate of:
 - i. in South Australia, less than or equal to 1TJ per year;
 - or
 - ii. in Victoria, less than or equal to 5000GJ per year;

supply equipment means facilities (including the measuring equipment) installed at or near the *supply point* to deliver gas from the network, to regulate that delivery, and to measure the gas quantity withdrawn at the *supply point*;

supply point means the point at which the distributor's distribution system connects to the *energy* network at the *premises* and includes your meter;

term means the period stated in the *schedule* as the "term";

transmission loss factor means, at any time, the multiplier then prevailing set by the *market and system operator* or estimated by us required to adjust electricity consumption for transmission losses relevant to the *premises*;

upstream event means:

- a. the occurrence of any 'force majeure' event under any wholesale gas purchase or transport arrangement to which we are a party;
- b. the exercise of rights by the other party to reduce the quantity of gas sold or delivered under any wholesale gas purchase or transport agreement to which we are a party;
- c. the amendment, suspension or termination (either in whole or relating to any quantity of gas) of any gas purchase or transport arrangement to which we are a party and which is not in our control; or
- d. any new amount or increase in any amount, passed through to us by the other party to a wholesale gas purchase or transport arrangement to which we are a party to reflect a cost incurred by that party;

verbal consent documents means the documents we provide to you subsequent to your verbal consent to a market contract which may include the contract conditions, our retail customer charter and any disclosure statement.

17.2 A reference to:

- a. **we** means Simply Energy (ABN 67 269 241 237), a partnership comprising IPower Pty Ltd (ACN 111 267 228) and IPower2 Pty Ltd (ACN 070 374 293), and their successors and assigns;
- b. **you** means the person or persons named in the *schedule* as "customer". If there are more than one, **you** means each of them separately and every two or more of them jointly. **You** includes your successors;
- c. the singular includes the plural and vice versa;
- d. any thing includes the whole and each part of it;
- e. a document includes any variation or replacement of it;
- f. law means common law, principles of equity and laws made by parliament (including regulations and other instruments under them

(such as orders and determinations), and consolidations, amendments, re-enactments or replacements of them;

- g. the words 'including', 'such as' or 'for example', are not words of limitation;
 - h. the word 'person' includes an individual, a firm, a body corporate, an unincorporated association or an authority; and
 - i. administration or other costs we incur include our internal costs.
- 17.3 The *schedule* and any disclosure statement prevails over these contract conditions to the extent of any inconsistency.
- 17.4 If any term of this contract indicates that we have a discretion, we exercise it, in addition to any other ground we specify, reasonably, in order to achieve optimal business efficiency and performance.

Privacy Statement

(Words printed like *this* have the meanings set out in condition 17 of the contract conditions).

What this statement is about

Your right to privacy is important to us. This statement explains your privacy rights and our rights and obligations in relation to your personal information, and forms part of your market contract with us.

Your rights

You need not give us any of the personal information requested in the *schedule* or any other document or communication relating to the market contract. However, without this information, we may not be able to supply you with *energy* or provide you with related services, and are not obliged to do so.

Collecting your personal information

We may collect personal information about you, including your name, address, date of birth, other contact details and payment details. We collect this information from you directly, and where permitted or required by the Federal Privacy Act and the National Privacy Principles, from third parties such as distributors or your authorised representative.

How we use your personal information

We will only use your personal information for our normal and authorised business purposes and operations, such as to:

- process the information provided by you by phone, in the *schedule*, or through our website;
- conduct appropriate checks for credit-worthiness and fraud (including obtaining a credit report (consumer or commercial) about you from a credit reporting agency to assess our requirements for credit support);
- allow us and our contracted suppliers to supply you with *energy* and related services;
- administer and manage the market contract (including process bills and receive payments, advise overdue payments to a credit reporting agency, keep you informed of changes that may impact you, etc);
- verify your identity and respond to your inquiries or complaints; and/or

- facilitate our internal business operations, including fulfilment of any legal requirements and confidential systems maintenance and testing.

We may also use your personal information to advise you of offers and promotions that you may be interested in. Please let us know should you not wish to receive such information by calling 13 88 08.

Our right to disclose your personal information

We may disclose your personal information in the following circumstances:

- to our agents, professional advisors (including lawyers), contractors, third party service providers or entities related to us but only for the purposes of our business;
- where the law requires or permits us to do so (for example, for law enforcement);
- for the purposes of any *energy* market process or system (including to distributors and to enable registration of a *retailer* as the party financially responsible for energy consumption at the *premises* and settlement of transactions and payments);
- to any organisation involved in a corporate re-organisation with us, or considering acquiring an interest in our assets or business, to whom we may transfer all or part of our assets or business, or with whom we may form an alliance for our business purposes, or to any of their advisors;
- to any financial institution or credit card provider that you have authorised to make an automatic payment to us;
- to your authorised representatives and legal advisors where required by you; or
- to other organisations if you request us to do so or if you consent.

Your access to your personal information

You have a right to access your personal information, subject to some exceptions allowed by law. You may at any time request access to personal information held by us about you and ask us to correct it if you believe it is incorrect or out of date. We do not charge a fee for an access request but we may charge you our reasonable costs of processing your request.

You are entitled to access a credit report about you obtained by Simply Energy. You may also request amendments to a credit report where held by Simply Energy. We will refer such requests for access or amendment, which must be in writing, to the credit reporting agency which has prepared the credit report.

