

Power Services

Negotiated Connection
and Supply Contract
– Generation, Battery,
Load Facilities and DCA
Providers – Transmission and
Distribution Connections

Introduction

This document is a template document published to comply with Power and Water Corporation's obligations under the Northern Territory National Electricity Rules. Specifically clause 5.3A.3, Schedule 5.10 and 5A.D.1.

This document is not an offer to enter into a contract.

In respect of each specific connection application made to Power and Water Corporation the terms of this document may need to be amended to reflect the circumstances of that connection application. In addition the schedules and other variables in this document will need to be negotiated and completed.

A binding contract may only arise once a formal offer has been made by Power and Water Corporation to a connection applicant in accordance with the procedures in the Northern Territory National Electricity Rules, which offer has been accepted by the applicant in accordance with the terms of the offer.

This template may be updated at any time. New versions of this template will be published on Power and Water Corporation's website in accordance with the Northern Territory National Electricity Rules.

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Negotiated Connection and Supply Contract

Date

Parties

- 1 **Power and Water Corporation** ABN 15 947 352 360 (PWC) of Level 2, Mitchell Centre, 55-59 Mitchell Street Darwin NT 0800
- 2 **[Insert Name of Customer]** (ABN [*]) (Customer) of []

Recitals

- A This Agreement sets out the terms upon which PWC has agreed to supply, and the Customer has agreed to acquire and pay for, one or both of Connection Services and Supply Services.

Part 1 Definitions and introduction

1. Definitions and interpretation

1.1 Definitions

The following definitions apply in this Agreement, unless the context requires otherwise.

Agreement means the agreement between PWC and the Customer, as set out in this document.

Alternative Control Services means services categorised by that name by the Regulator from time to time, whether "Fee-based services" or "Quoted services".

Approval means:

- (a) any consent, authorisation, registration, filing, recording, agreement, notarisation, certificate, permission, licence, approval, permit, authority or exemption from, by or with, a Government Agency or judicial body; and
- (b) in relation to any act, matter or thing which may be proscribed or restricted in whole or in part by Law or otherwise if a Government Agency or judicial body intervenes or acts in any way within a specified period after lodgement, registration or other notification of the act, matter or thing, the expiration of the period without the intervention or action.

Business Day means a day that is not a Saturday, Sunday, bank holiday or public holiday in Darwin.

Change in Imposts means a variation in the rate at which Imposts are levied or the circumstances in which they are imposed, the imposition of new Imposts or the removal of existing Imposts.

Change in Law means the enactment, amendment, repeal, revocation or change in the application of any Law (including Government Agency policy relating to the practical application of the Law) but excluding any Law relating to the imposition of income tax or capital gains tax

Completion means that PWC determines, acting reasonably, that it has completed the PWC Works and is, subject to the Customer completing the Customer Works and any Transferred Works and otherwise meeting the conditions in clause 15, ready to energise those PWC Works.

Completion Date means the date on which Completion is achieved.

Connection means a physical link between the Electricity Network and the Site to allow the flow of electricity.

Connection Alteration means an alteration to an existing Connection, including an addition, upgrade, extension, expansion, augmentation or any other kind of alteration.

Connection Assets means the assets which are used, or are to be used, to provide Ongoing Connection Services to the Customer at the Site.

Connection Service Charge means the charge (as set out in Schedule 2) payable by the Customer to PWC for the

work involved in establishing a Connection or making a Connection Alteration as that charge may be varied in accordance with this Agreement (including the costs of design, construction, commissioning and testing of PWC Works, the costs PWC incurs in relation to the review, inspection and testing of Customer Works and Transferred Works and the other costs PWC incurs in discharging its obligations under this Agreement relating to or in connection with establishing the Connection or making a Connection Alteration).

Connection Offer means an offer made by PWC under the NT NER relating to establishing a Connection, making a Connection Alteration or otherwise in respect of Network Access Services.

Connection Point means an Entry Point or an Exit Point.

Connection Works Service means the service of establishing a Connection or making a Connection Alteration.

Consequential Loss means each of the following forms of loss:

- (a) special loss;
- (b) indirect loss;
- (c) incidental losses;
- (d) any loss of business opportunity;
- (e) business interruption;
- (f) loss of revenue or anticipated loss of revenue;
- (g) loss of access to markets;
- (h) loss of goodwill, loss of business reputation, future reputation or publicity;
- (i) increased overhead costs;
- (j) costs of obtaining or using alternative fuels;
- (k) increased costs of carrying out operations;
- (l) damage to credit rating;
- (m) loss of use;
- (n) loss of interest;
- (o) loss of profit or anticipated loss of profit;
- (p) punitive or exemplary damages; and
- (q) liability to a third party (other than liability for personal injury or death caused to that third party),

and provided that no paragraph of this definition of Consequential Loss limits the scope of any other paragraph of this definition.

Constraint has the meaning given to that term in the NT NER.

Contract Maximum Demand or **CMD** means the contract maximum demand for each Exit Point (in kVA) as specified in Schedule 1.

Part 1 Definitions and introduction

Contractor means a person engaged by the Customer to undertake and complete any part of the Transferred Works.

Corporations Act means the *Corporations Act 2001* (Cth).

Costs Event means the occurrence of one or more of the following events or circumstances:

- (a) a Change in Law occurs after the Execution Date or such other date specified in Schedule 1;
- (b) a Change in Imposts occurs after the Execution Date or such other date specified in Schedule 1;
- (c) a change to any Approval (whether held by PWC or the Customer) or the terms of a Land Access Right after the date on which it is obtained (where, in respect of an Approval a change may include a variation in the terms of an Approval or the cancellation or the substitution of a new Approval);
- (d) any Latent Conditions are discovered after the Execution Date;
- (e) the occurrence of a Force Majeure Event (whether affecting PWC or the Customer);
- (f) a failure by the Customer to comply with this Agreement;
- (g) PWC suspends the performance of the PWC Works in circumstances permitted by this Agreement; and
- (h) any other event or circumstances specified in Schedule 1.

Customer Facilities means all electrical infrastructure and electrical installations at the Site on the Customer's side of each Connection Point used for the purpose of the generation, control, measurement, conveyance, consumption or use of electricity and including the Generation Facilities.

Customer Specifications means the specifications for the Customer Works, as set out or referred to in Schedule 3.

Customer Works means the works to be undertaken by the Customer (including to facilitate PWC undertaking the PWC Works) as described in Schedule 3 (but excluding the Transferred Works).

Declared Sent Out Capacity or DSOC means the declared sent out capacity (in MW) for each Entry Point as specified in Schedule 1.

Easements means easements granted, or to be granted, to PWC as part of the Land Access Rights.

Electricity Laws means:

- (a) the ERA;
- (b) the *Utilities Commission Act* (NT);
- (c) the NT NEL;
- (d) the NT NER;
- (e) the Network Technical Code;
- (f) the System Control Technical Code; and

(g) any other legislation, regulations or legally binding instruments (including rules, codes, guidelines, directives, licence conditions or other regulatory instruments) made under legislation or regulations which are directly or indirectly binding on or are expressed to apply to PWC or the Customer from time to time and relate to:

- (i) the undertaking of the PWC Works, the Customer Works or the Transferred Works;
- (ii) the operation, maintenance, ownership, safety or integrity of the Electricity Network or the Customer Facilities;
- (iii) the supply of electricity to the Site or to other customers;
- (iv) the export of electricity from the Site;
- (v) the Northern Territory electricity industry; or
- (vi) any actions required to be taken by PWC or the Customer to discharge their obligations or exercise their rights under this Agreement.

Electricity Network means the electricity network (as defined in the ERA) operated by PWC.

Emergency means the actual or imminent occurrence of an event which in any way poses or has the potential to pose a threat to the safety of persons, hazard to any equipment or property or a threat to power system security.

Encumbrance means:

- (a) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement, trust or power as security for the payment of money or observance of any other obligation whether granted over real or personal property; and
- (b) anything which constitutes a "security interest" under the PPSA.

Entry Point means a connection point between the Site and the Electricity Network specified in Schedule 1 as an "Entry Point".

Entry Point Meter means the meter located at an Entry Point.

Entry Services means the provision of the capability of the Connection Assets in accordance with the terms of this Agreement so as to enable the Customer to deliver electricity into the Electricity Network via an Entry Point up to but not exceeding the DSOC for that Entry Point.

Equipment means, in the case of the Customer, the Customer Facilities and in the case of PWC the Connection Assets and any parts of the Electricity Network proximate to the Site.

ERA means the *Electricity Reform Act* (NT).

Execution Date means the date this Agreement is executed by the last party to execute it.

Exit Point means a connection point between the Site and the Electricity Network specified in Schedule 1 as an "Exit Point".

Part 1 Definitions and introduction

Exit Point Meter means the meter located at an Exit Point.

Exit Services means the provision of the capability of the Connection Assets and the Electricity Network in accordance with the terms of this Agreement so as to enable the Customer to draw electricity from the Electricity Network via an Exit Point up to but not exceeding the CMD for that Exit Point.

Fixed Period of Connection means the time period (if any) so named and specified in Schedule 1.

Force Majeure Event means any event or circumstance not within the reasonable control of a party and which by the exercise of reasonable care that party is not able to prevent or overcome.

Generation Facilities means the electricity generation facilities (if any) of the Customer at the Site as described in Schedule 4 (including any energy storage facilities).

Generator Performance Standards means, for any Generation Facilities to which clause 3.3 of the Network Technical Code applies:

- (a) the requirements of clause 3.3 of the Network Technical Code;
- (b) the performance standards applicable to those Generation Facilities (being either automatic access standards or negotiated access standards as defined in the Network Technical Code) as set out in Schedule 7; and
- (c) the obligations of the Customer arising out of agreement as to the matters set out in clause 3.3.3 of the Network Technical Code, as documented in Schedule 8.

Good Electricity Industry Practice has the meaning given to that term in the NT NER.

Government Agency means any government department or any statutory, public, municipal, local or other authority charged with the responsibility for administering any relevant legislation, regulation, ordinance or by-law.

GST has the meaning given to that term in the GST Law.

GST Law has the meaning set out in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Handover Certificate means a certificate described as such in clause 14.6.

Impost means any tax (excluding income tax and GST), duty, impost, levy, licence fee or other charge imposed by any government or Government Agency.

Initial Customer Payment Amount means the amount described as such in Schedule 2.

Insolvency Event means in respect of the Customer one or more of the following events occurs:

- (a) any execution or other process of any court or other authority is issued against or levied upon any material part of the Customer's property or assets;

- (b) a petition or application is presented (and not withdrawn within 10 Business Days), or an order is made or a resolution is passed for the winding-up or dissolution without winding-up of the Customer otherwise than for the purpose of reconstruction or amalgamation under a scheme to which PWC has given its consent;

- (c) a receiver or a receiver and manager of the undertaking or any material part thereof of the Customer is appointed;

- (d) the Customer proposes to enter into, or enters into, any arrangement, reconstruction or composition with or for the benefit of its creditors to which PWC has not given its consent;

- (e) an administrator of the Customer is appointed or the board of directors of the Customer passes a resolution of the type specified in section 436A(1) of the Corporations Act;

- (f) the Customer fails (as defined by section 459F of the Corporations Act) to comply with a statutory demand;

- (g) a controller (as defined in the Corporations Act) is appointed in respect of the Customer or the whole or a material part of the Customer's undertaking, property or assets;

- (h) application is made to a court for an order in respect of the Customer under section 233 of the Corporations Act; and

- (i) an event referred to in section 459C(2) of the Corporations Act occurs in respect of the Customer.

Intellectual Property Rights means all statutory and other proprietary rights in respect of inventions, innovations, patents, utility models, designs, circuit layouts, mask rights, copyrights (including future copyrights), confidential information, trade secrets, know-how, trade-marks and all other rights in respect of intellectual property as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

Interest Rate means, at a point in time:

- (a) the current Westpac Indicator Lending Rate; or
- (b) if that rate is not published by Westpac Banking Corporation, the rate which it does publish as its base rate to which interest on overdrafts accounts of \$100,000 is calculated,

provided that if neither rate referred to above is published or can be determined, then the Interest Rate will be such interest rate as nominated by PWC acting reasonably as a rate which is an appropriate substitute for the Westpac Indicator Lending Rate.

Interrupt means interrupt, curtail or constrain.

Land Access Rights means the easements, leases and other land access rights which PWC requires to be

Part 1 Definitions and introduction

obtained for the undertaking of, or ongoing location and maintenance of and access to the assets constructed and installed by, the PWC Works and the Transferred Works as specified in Schedule 1.

Latent Condition means any unanticipated physical conditions (such as rocks, items of heritage value, weather conditions or artificial objects) which mean that:

- (a) PWC is unable to complete the PWC Works;
- (b) the PWC Works will take longer to undertake than estimated by PWC when PWC prepared the Connection Offer; or
- (c) in order to complete the PWC Works, PWC will incur additional costs to those it expected to incur when PWC prepared the Connection Offer.

Law means the written and unwritten laws in force in the Northern Territory (including all applicable Commonwealth laws) and including all Electricity Laws.

Licence Event is defined in clause 43.1.

Market Operator means the operator of the Northern Territory wholesale electricity market.

Minimum Period of Connection is the time period (if any) so named and specified in the Formal Instrument of Agreement

Network Access Services means services provided by PWC by use of the Electricity Network including Ongoing Connection Services, the supply of electricity at an Exit Point and the acceptance of electricity at an Entry Point.

Network Technical Code means the network technical code made by PWC pursuant to section 111(2)(da) of the ERA and regulation 25 of the *Electricity Reform (Administration) Regulations 2000*, subject to the derogations (if any) set out in Schedule 9.

Northern Territory Electricity Market means the wholesale electricity market operating in the Northern Territory.

NT NEL means the National Electricity Law as it applies in the Northern Territory.

NT NER means the National Electricity Rules as they apply in the Northern Territory.

Ongoing Connection Services means the service of permitting the Customer Facilities to remain connected to the Electricity Network and operating and maintaining the Connection Assets so the Customer may, in accordance with this Agreement, deliver electricity into the Electricity Network or take a supply of electricity from the Electricity Network.

Operating Protocols means the operating protocols for dealing with operational issues arising under this Agreement, including maintenance coordination, being:

- (a) the protocols (if any) set out in Annexure 1;
- (b) the protocols agreed pursuant to clause 8(e); and

- (c) any protocols set out in the documents agreed by the parties pursuant to clause 20.10(c),

as those Operating Protocols are modified pursuant to clause 20.10(c).

Original Defects Liability Period means a period of 2 years from the date of issue of the Handover Certificate as extended under clause 14.9(f).

Outage means any interruption or curtailment in the ability of the Electricity Network to provide services to anyone connected to the Electricity Network.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Power System means the Electricity Network and all generation facilities connected to the Electricity Network which are capable of delivering electricity into the Electricity Network.

Power System Controller means the system controller under the ERA.

Power Transfer Capability means the ability of the Electricity Network to deliver electrical power to, or receive electrical power from, the Customer Facilities as determined from time to time by the Power System Controller or PWC.

Preliminary Customer Works means those Customer Works which must be undertaken as a condition to PWC commencing the PWC Works (as described in Schedule 3).

Pricing Schedule means those documents published by PWC on its website setting out the prices for services provided by PWC.

PWC Works means the works relating to or in connection with establishing a Connection or altering an existing Connection between the Electricity Network and the Site to be undertaken by PWC (as described Schedule 5).

PWC Works Commencement Date means the date on which all of the preconditions set out in clause 4.2 have been satisfied.

Regulator means the Australian Energy Regulator or such other body or bodies as from time to time succeed to its functions as regulator of electricity network prices in the Northern Territory.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Retailer means a person that is licenced under Part 3 of the ERA to sell electricity to end-users of electricity in the Northern Territory.

Revenue Security means the irrevocable, unconditional bank guarantee required to be provided under clause 17.

Service Charges means the charges payable by the Customer for the provision of Supply Services, as specified in Schedule 2.

Part 1 Definitions and introduction

Service Costs Event means the occurrence of one or more of the following events or circumstances:

- (a) a Change in Law occurs after the Execution Date or such other date specified in Schedule 1;
- (b) a Change in Imposts occurs after the Execution Date or such other date specified in Schedule 1;
- (c) a change to any Approval (whether held by PWC or the Customer) or the terms of a Land Access Right after the date on which it is obtained (where, in respect of an Approval a change may include a variation in the terms of an Approval or the cancellation or the substitution of a new Approval).

Site means the Customer's site as specified in Schedule 1.

Standard Rates means PWC's standard rates for work or services undertaken or supplied by its employees as determined by PWC from time to time (and where an Electricity Law regulates how such rates are set then as determined in accordance with any requirements of that Electricity Law).

Supply Contract means the contract under which Supply Services will be provided to the Customer (being either this Agreement or the contract determined in accordance with clause 2.2)

Supply Service means a Network Access Service other than a Connection Work Service.

Survey Plan means a plan satisfactory to PWC prepared by a registered surveyor to permit registration of easements or leases.

Switching means the switching or electrical isolation of equipment, and where applicable, the earthing of high or low voltage equipment.

System Control Technical Code means the code of that name made pursuant to section 38(1) of the ERA.

Transferred Works means assets to be constructed by the Customer but the ownership of which is to be transferred to PWC (being those described in Schedule 6).

Transferred Works Security means the irrevocable, unconditional bank guarantee required to be provided under clause 14.10.

Transferred Works Site means the areas in which the Transferred Works are to be constructed and installed.

Transferred Works Specifications means the specifications provided by PWC to the Customer for the Transferred Works.

Other terms are defined in the clauses of this Agreement in which they are used.

1.2 Interpretation

In this Agreement, the following rules of interpretation apply unless a contrary intention appears.

- (a) The singular includes the plural and vice versa and a reference to a gender includes all other genders.

- (b) A person includes an individual, body corporate, firm, partnership, joint venture, unincorporated body and Government Agency.

- (c) A reference to:

- (i) a person includes that person's successors, permitted substitutes and permitted assigns;
- (ii) a clause, schedule, attachment, annexure or exhibit is to a clause of, or a schedule, attachment, annexure or exhibit to, this document;
- (iii) this document or another document includes that document as amended, varied, supplemented, novated or replaced from time to time and any schedule, attachment, annexure or exhibit to that document;
- (iv) "agreement" includes an undertaking, deed, contract or other legally enforceable arrangement, whether or not in writing, and a reference to "document" includes an agreement (as so defined) in writing or any certificate, notice, instrument or other document of any kind;
- (v) legislation or a provision of legislation includes all regulations, orders or instruments issued under that legislation or provision and any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (vi) "include", "including" and "for example", and similar expressions, when introducing a list of items, does not limit the meaning of the words to which the list relates to those items or to items of a similar kind;
- (vii) dollars or \$ is to Australian dollars;
- (viii) time is to the time in Darwin; and
- (ix) a day, month, quarter or year means a calendar day, month, quarter or year respectively.

- (d) A reference to PWC's published standards includes any PWC published standard, guideline or procedure on PWC's website.

- (e) Where a word or expression is defined or given meaning, another grammatical form has a corresponding meaning.

- (f) A provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision in this Agreement.

- (g) A period of time expressed to commence:

- (i) before or after a given day, or before or after the day of an act or event, is to be calculated exclusive of that day; and
- (ii) on a given day, or on the day of an act or event, is to be calculated inclusive of that day.

1.3 Headings

Headings are inserted for convenience and do not affect the interpretation of this Agreement.

Part 1 Definitions and introduction

1.4 Multiple parties

If a party to this Agreement is made up of more than one person, or a term is used in this Agreement to refer to more than one party, an obligation of those persons is joint and several, a right of those persons is held by each of them separately, and any other reference to that party or term is a reference to each of those persons separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.

1.5 Payments

If a party is required to pay an amount under this Agreement, it must pay the amount by direct deposit of cleared funds to a bank account in the name of the payee, the details of which are notified by the payee at least two Business Days before the due date for payment, without any set-off, deduction, withholding or retention of any amount unless expressly contemplated by this Agreement, required by Law or directed by the payee.

2. Structure

2.1 Services

- (a) If Schedule 1 provides that PWC is providing a Connection Work Service under this Agreement then Parts 1, 2 and 4 of this Agreement apply to PWC and the Customer.
- (b) If Schedule 1 provides that PWC is providing a Supply Service under this Agreement then Parts 1, 3 and 4 of this Agreement apply to PWC and the Customer.
- (c) If Schedule 1 provides that PWC is providing both a Connection Work Service and a Supply Service under this Agreement, then this entire Agreement applies to PWC and the Customer.

2.2 Contract for Supply Service

If Schedule 1 does not provide that PWC is providing a Supply Service under this Agreement at a point at which the Electricity Network connects to the Site, then the Customer may not deliver electricity into the Network or take electricity from the Network at that point unless and until:

- (a) Schedule 1 specifies another contract to which the Customer is party and which provides for provision of a Supply Service at that point; or
- (b) if Schedule 1 does not specify any such contract, PWC and the Customer execute a contract which expressly provides for provision of a Supply Service at that point.

3. Conditions Precedent

3.1 Conditions

- (a) The commencement of this Agreement, other than clauses 1, 2, 39, 46, 47, 49, 50, 51, 53 and this clause 3, which clauses commence upon the Execution Date, is subject to, and this Agreement does not become binding unless and until, the satisfaction or waiver of the Conditions.

- (b) The Conditions, and the party responsible for satisfying each Condition, are as specified in Schedule 1.

A Condition is for the benefit of the party specified in Schedule 1.

3.2 Responsibility for Satisfying

- (a) Each party must use its reasonable endeavours to procure the satisfaction of the Conditions which it is responsible for satisfying (as specified in Schedule 1) as soon as is reasonably practicable after the execution of this Agreement.
- (b) Each party must provide the other party with such assistance as the other party may reasonably require to enable that other party to satisfy any Condition it is responsible for satisfying.

3.3 Notification

- (a) Each party must provide to the other such information as it reasonably requests in relation to the progress in satisfying the Conditions.
- (b) A party must, as soon as reasonably practicable after a Condition has been satisfied, notify the other party of that fact.
- (c) A party must, as soon as reasonably practicable, notify the other party if it forms the view that a Condition is unlikely to be satisfied.

3.4 Effect of Satisfaction or Waiver

- (a) A Condition may only be waived by the party for whose benefit the Condition exists. A Condition which is for the benefit of both parties may only be waived by agreement in writing between the parties.
- (b) A party may only waive a Condition for its sole benefit by giving notice of the waiver to the other party.
- (a) This Agreement becomes unconditional upon the satisfaction or waiver of all of the Conditions.

3.5 Termination

- (a) If the Conditions are not satisfied or waived by the date specified in Schedule 1, then either party may serve a notice under this clause 3.5(a). Unless the Conditions are satisfied or waived within 14 days of the service of that notice this Agreement will terminate upon the expiration of 14 days from the service of that notice.
- (b) Termination of this Agreement under this clause 3.5 is without prejudice to the accrued rights and obligations of the parties under this Agreement.
- (c) If this Agreement terminates under this clause 3.5 the Customer must pay PWC any costs incurred by PWC up to the date of termination of this Agreement in satisfying PWC's obligations under this Agreement.

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4. Connection Works

4.1 PWC Works

PWC will, in accordance with this Agreement, undertake the PWC Works.

4.2 Preconditions to commencement of the PWC Works

- (a) PWC is not required to commence the PWC Works until such time as each of the following have occurred:
 - (i) the Customer has completed the Customer Preliminary Works to PWC's satisfaction;
 - (ii) the Customer has paid to PWC the Initial Customer Payment Amount in accordance with clause 9 and PWC has received this amount in cleared funds;
 - (iii) the Approvals and Land Access Rights have been obtained in accordance with clause 5;
 - (iv) the Customer has provided to PWC the Revenue Security and the Transferred Works Security;
 - (v) PWC is satisfied it will have safe and unhindered access to the Site as required to undertake the PWC Works; and
 - (vi) any other precondition to the PWC Works identified in Schedule 1 has been satisfied.
- (b) If the conditions referred to in clause 4.2(a) have not been satisfied within the period specified in Schedule 1 then PWC may terminate this Agreement.
- (c) If this Agreement is terminated under clause 4.2(b) the Customer must pay PWC any costs incurred by PWC up to the date of termination of this Agreement in satisfying PWC's obligations under this Agreement and any costs incurred by PWC consequent upon such termination.
- (d) To the extent that as at the date of termination the amounts received by PWC from the Customer exceed the amount referred to in clause 4.2(c), PWC will refund the excess to the Customer.
- (e) To the extent that as at the date of termination the amounts received by PWC from the Customer are less than the amount referred to in clause 4.2(c), PWC may issue an invoice to the Customer for the shortfall.

5. Approvals and Land Access Rights

- (a) Except for such Approvals Schedule 1 expressly provides will be obtained by PWC, the Customer is responsible for obtaining (at its cost):
 - (i) all Approvals which PWC is required to hold under Law to undertake the PWC Works;
 - (ii) all Approvals required to undertake the Transferred Works; and

(iii) all Approvals required to undertake the Customer Works.

- (b) PWC is responsible for obtaining those Approvals which Schedule 1 provides will be obtained by PWC.
- (c) The Customer must (at its cost) obtain, and procure the grant to PWC at no cost to PWC, the Land Access Rights specified in Schedule 1 as required to be obtained by the Customer.
- (d) All Approvals and Land Access Rights must be on terms acceptable to PWC (acting reasonably) and will not be regarded as having been obtained unless the terms thereof are so acceptable. In determining whether the terms are acceptable, PWC will have regard to whether:
 - (i) the terms generally reflect the terms upon which equivalent Approvals and Land Access Rights (as applicable) are granted to PWC; and
 - (ii) the costs of compliance with any terms of the Approvals and Land Access Rights (as applicable) are consistent with those costs assumed by PWC at the time it formulated the Connection Service Charge.
- (e) An Approval or Land Access Right will not be regarded as having been obtained until all rights for any person to challenge the acquisition, grant or terms of that Approval or Land Access Right (whether by appeal, judicial review, Ministerial review or otherwise) have expired and been exhausted (including where there has been an appeal or review application on the date on which any review or appeal is dismissed, struck out or withdrawn or all questions raised by any such review or appeal have been finally determined (other than the question of costs)).

6. Undertaking of the PWC Works

- (a) As and from the PWC Works Commencement Date, PWC agrees to use its best endeavours to undertake and complete the Works within the time period specified in Schedule 1.
- (b) The undertaking of the PWC Works may be delayed (without limitation) by one or more of the following matters and PWC is not liable for any delay caused by such matters:
 - (i) the Customer's failure to comply with this Agreement;
 - (ii) Force Majeure Events;
 - (iii) if Emergencies or other events adversely impact the Electricity Network and, as a prudent operator, PWC diverts resources to address those events;
 - (iv) delays caused by third parties including Government Agencies or operators of other infrastructure (for example roads or telecommunications infrastructure);

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- (v) Latent Conditions; and
 - (vi) where PWC suspends the PWC Works in the circumstances permitted by this Agreement.
- (c) In the case of delays referred to in clause 6(b)(ii), clause 6(b)(iii), clause 6(b)(iv), or clause 6(b)(v), PWC will take reasonable steps to overcome the delay but is not required to apply additional resources to the PWC Works than those which were planned to be applied prior to the delay. Further PWC has no obligation to undertake work outside the hours of 6.00am to 6.00pm on Business Days to overcome or mitigate the extent of any delay which has occurred.
- (d) The Customer acknowledges that to the extent the PWC Works require an Outage which will impact persons other than the Customer then PWC may only be able to undertake that Outage at specified times (Windows) and if due to a delay in the PWC Works or some other event a Window is missed then the Outage will not be able to be undertaken until the next available Window.
- (e) The availability of Windows will depend upon PWC obtaining any required Approvals and consents from other persons connected to the Electricity Network. PWC has no liability to the Customer if it cannot obtain the required Approvals and consents required to conduct an Outage during any specific timeframe.

7. Asset Location

- (a) If Schedule 5 sets out the location at which assets will be installed by PWC at the Site then PWC will install the assets at that location unless in the course of undertaking the PWC Works PWC identifies conditions which mean it is not safe or technically or practically feasible to do so. If PWC determines that it needs to move the location of the assets then it will consult with the Customer as to the Customer's preferred location for those assets but the final location will be determined by PWC, acting reasonably, having regard to safety, technical and practical considerations.
- (b) If Schedule 5 does not set out the location of the assets to be installed by PWC at the Site, then PWC will consult with the Customer as to the Customer's preferred location for those assets but the final location will be determined by PWC, acting reasonably, having regard to safety, technical and practical considerations.

8. Information and Co-Operation

- (a) Each party will:
- (i) give to the other party all reasonable assistance and information; and
 - (ii) co-operate and liaise with the other party,
- so as to allow that other party to comply with any obligations imposed upon that other party under an

Electricity Law or this Agreement or which is otherwise reasonably requested by the other party and which relates to the PWC Works, the Customer Works or the Transferred Works.

- (b) Without limiting clause 8(a), the Customer must:
- (i) provide to PWC (within 3 Business Days of being requested to do so or such shorter period as PWC may reasonably request) such information requested by PWC which is reasonably necessary to enable PWC to undertake the PWC Works;
 - (ii) provide to PWC such assistance and do all things as PWC may reasonably require from time to time in relation to any activity required to be undertaken by PWC in order to undertake the PWC Works; and
 - (iii) notify PWC as soon as reasonably possible if any information provided by the Customer to PWC changes (including provided indirectly to PWC via the Customer's Retailer) or if the Customer becomes aware of any error or omission in that information or matter which has caused that information to cease to be correct.
- (c) The information PWC will provide does not extend to providing advice or making an assessment as to whether the Customer Works and any other works the Customer is undertaking on the Customer's side of the Connection Point are appropriate for the Customer's purposes. PWC does not provide information or advice in respect of such matters and the Customer must seek that advice from a licensed electrical contractor under the Electrical Workers and Contractors Act 1978 or other appropriately qualified person. Any information PWC provides, and comments it makes, about such installations and equipment are for PWC's internal purposes and not for the purposes of providing advice to the Customer.
- (d) No input, advice, comments, directions or inspection from PWC in relation to the Customer Works relieves the Customer from the obligation to ensure the Customer Works comply with Electricity Laws.
- (e) The parties will in act in good faith to agree any Operating Protocols PWC requires be agreed as a condition to establishment, energisation or completion of a Connection or upgraded Connection (as set out in clause 15(k)).

9. Connection Service Charge

- (a) The amount payable by the Customer for the Connection Works Service is the Connection Service Charge, as set out in Schedule 2.
- (b) The Connection Service Charge is subject to adjustment in the circumstances set out in clause 10.
- (c) The Customer must pay the Connection Service Charge as follows:

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- (i) the Customer must pay the Initial Customer Payment Amount within 21 days of receiving an invoice from PWC which invoice may be issued at any time after satisfaction or waiver of the Conditions; and
- (ii) the remaining parts of the Connection Service Charge are payable at the times determined in accordance with Schedule 2.

10. Variations to Charges

- (a) The Connection Service Charge has been determined by PWC based upon the information provided by the Customer to PWC, both directly and indirectly (for example information provided by the Customer to its Retailer which is then provided to PWC). If this information is inaccurate then PWC may:
 - (i) revise the Connection Service Charge to reflect the level the Connection Service Charge would have been set at had accurate information been provided to PWC;
 - (ii) charge the Customer additional fees for any service vehicle visits where PWC was unable to undertake the PWC Works as a result of the provision of inaccurate information; and
 - (iii) except to the extent recovered by clause 10(a)(i) or clause 10(a)(ii), charge the Customer for any costs incurred by PWC due to the provision of that inaccurate information.
- (b) Where PWC's costs of undertaking the PWC Works are increased by one or more Costs Events PWC may increase the Connection Service Charge and, to reflect that change, adjust the times for payment of the Connection Service Charge under clause 9(c). Any such changes will be determined in accordance with any applicable requirements of Electricity Laws.
- (c) Without limiting the manner in which PWC's costs of undertaking the PWC Works may be increased, they may be increased due to Changes in Law which require the PWC Works to be undertaken to a different standard, by events which require PWC to apply additional resources to the PWC Works, by events which require PWC to spend more time undertaking the PWC Works than contemplated when determining the Connection Service Charge or by events which increase the payments required to be made by PWC to third parties in respect of the PWC Works.
- (d) The additional costs which PWC may incur due to the Customer's failure to comply with this Agreement include (without limitation) waiting time for idle labour which cannot undertake work at the Site (or reasonably undertake work elsewhere) and costs of having to re-attend at the Site where PWC was unable to undertake its work the first time it attended.
- (e) If PWC has to, due to the Customer's failure to comply with this Agreement or due to any deficiency or defect in the relevant test, plans, procedure,

design or works caused by the Customer, repeat any test, review, works or obligation of PWC under this Agreement then PWC may charge the Customer for PWC's costs of repeating the test, review, works or obligation.

- (f) If the costs incurred by PWC in obtaining the Approvals and the Land Access Rights exceed the amount assumed in calculating the Connection Service Charge (as set out in Schedule 2) then PWC may recover such additional amount from the Customer and may issue one or more invoices at such times determined by PWC to recover such amounts.

11. Access to Site

- (a) The Customer must provide PWC (including to avoid doubt its employees, servants, agents and contractors) with clear, unlimited and safe access to the Site for the purpose of undertaking the PWC Works and exercising PWC's rights in respect of the Transferred Works and Customer Works and its remaining rights under this Agreement.
- (b) The Customer must ensure no person hinders or disrupts PWC's access to the Site.
- (c) The Customer must ensure that:
 - (i) the Site meets the Customer's and PWC's safety standards;
 - (ii) all known hazards at the Site have been shown to PWC prior to commencement of the PWC Works or PWC otherwise first accessing the Site; and
 - (iii) any safety procedures relating to the Site have been provided and demonstrated to PWC prior to commencement of the PWC Works.
- (d) If due to hazards or other matters at the Site PWC, having regard to occupational health and safety standards which apply to PWC, considers (acting reasonably) it is unsafe for PWC to undertake the PWC Works at the Site, then PWC may suspend the undertaking of the PWC Works and notify the Customer of the unsafe conditions. The Customer is responsible for rectifying the unsafe conditions and PWC will not recommence the PWC Works until the unsafe conditions are rectified.
- (e) On the termination of this Agreement for any reason, PWC may access the Site at any time in order to disconnect, dismantle and remove from the Site any goods and equipment supplied by PWC for the purposes of undertaking the PWC Works (without prejudice to any other rights of recovery that may be available to PWC). The Customer must not hinder or disrupt any such access by PWC to the Site.
- (f) The PWC Works will not become affixed to the Site and will not become subject to any Encumbrance held over the Site by a third party.

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12. Customer Works

- (a) The Customer must undertake the Customer Works.
- (b) The Customer must ensure the contractors undertaking the Customer Works have:
 - (i) all Approvals required by Law to lawfully undertake that work; and
 - (ii) all relevant accreditations from Government Agencies or industry bodies (for example the Clean Energy Council) relevant to the specific works being undertaken by the contractor.
- (c) The Customer Works must be undertaken in accordance with:
 - (i) Good Electricity Industry Practice;
 - (ii) all applicable Australian Standards;
 - (iii) Electricity Laws;
 - (iv) all applicable published PWC standards, design manuals and construction guidelines; and
 - (v) any standards, design manuals and construction guidelines advised by PWC to the Customer prior to the Execution Date.
- (d) The Customer must ensure the Customer Works comply with the Customer Specifications and must undertake such testing as required by PWC to ensure the Customer Works comply with those Customer Specifications.
- (e) The Customer Works must be undertaken so that, and the Customer must otherwise ensure that, PWC will have safe and convenient access to the metering point, and all PWC Works installed, on the Site.
- (f) The Customer must not vary the Customer Works, from those described in Schedule 3, without first notifying PWC and seeking its consent. PWC will give such consent provided that the varied work will not increase the cost of PWC undertaking the PWC Works or delay the PWC Works and provided the Customer Works as varied will comply with the requirements of this Agreement.
- (g) The Customer must reimburse PWC its costs of considering any request by the Customer to vary the Customer Works.
- (h) The Customer must immediately notify PWC if any defect or danger is identified in any of the equipment installed, or being installed, by the Customer as part of the Customer Works.
 - (i) The Customer must provide to PWC the following documents in respect of the Customer Works:
 - (i) as built drawings of the Customer Works (including filed recordings prepared after trenching and before backfilling of the exact location of any underground cable ducts, cables and joints); and
 - (ii) such documents specified in Schedule 3.

13. Testing and Commissioning

- (a) Prior to commencing any work to install the Customer Facilities, the Customer must complete and submit to PWC for approval and have approved:
 - (i) such documentation as required in accordance with any PWC published standards; and
 - (ii) such additional documentation specified in Schedule 3.
- (b) The Customer Facilities may not be Connected to the Electricity Network until PWC has undertaken such inspection of the Customer Facilities as PWC requires to satisfy PWC that the Customer Facilities:
 - (i) will not adversely affect the Electricity Network;
 - (ii) comply with the requirements of Electricity Laws;
 - (iii) if applicable, will meet the Generator Performance Standards; and
 - (iv) comply with the requirements of the Supply Contract,and until any testing and any simulations and testing required under this clause 13 has been completed and successfully passed.
- (c) The Customer must undertake such testing of the Customer Facilities as required by the Network Technical Code, the NT NER, other Electricity Laws and the schedules to this Agreement and if applicable must undertake any model validation required by clause 5.4(b) of the Network Technical Code. Where model validation is required by the Network Technical Code, the Customer must provide such evidence as required by PWC to substantiate that the Customer's model meets such validation requirements as published by PWC.
- (d) Without limiting clause 13(c), the Customer must, in accordance with PWC's directions and any requirements of the Network Technical Code and the NT NER, undertake such testing as PWC requires to satisfy PWC that the Customer Facilities meet the requirements specified in this clause 13. Such testing must be undertaken by the Customer at the Customer's cost.
- (e) Where an inspection or test shows the Customer Facilities do not comply with the requirements of this Agreement or otherwise may adversely affect the Electricity Network then the Customer must, at its cost, arrange for any necessary remedial work to be undertaken and notify PWC once this is completed. PWC will then undertake such further inspection and require the Customer to undertake such further testing as PWC requires. The Customer must pay PWC its costs of undertaking such inspection and testing. This clause 13(e) will continue to apply until all inspections and tests have been satisfactorily completed.

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- (f) The Customer must provide to PWC such evidence that the Customer's Facilities have passed the tests referred to in this clause 13 as required by Electricity Laws and as required by PWC to satisfy PWC such tests have been successfully passed.

14. Undertaking Transferred Works

14.1 Application

- (a) This clause 14 applies if Schedule 6 sets out Transferred Works.
- (b) The Customer must undertake the Transferred Works set out in Schedule 6.
- (c) In undertaking the design and construction of the Transferred Works the Customer must comply with any directions given to it by PWC as to the undertaking of such design and construction provided such directions are consistent with the requirements of this Agreement.

14.2 Contractors

- (a) The Customer must ensure the Contractors engaged by the Customer to undertake the Transferred Works:
- (i) have all necessary skills and experience to undertake that work in accordance with Good Electricity Industry Practice and the requirements of this Agreement;
 - (ii) hold all required Approvals to undertake that work in accordance with Electricity Laws; and
 - (iii) have all relevant accreditations from Government Agencies or industry bodies relevant to the specific works being undertaken by the Contractor.
- (b) The Customer must advise PWC of the name, address and contact details of each contractor proposed to be used by the Customer, before that contractor commences to undertake the Transferred Works. The Customer must notify PWC as soon as is reasonably practicable of any changes to these details.
- (c) The Customer must promptly give PWC whatever other information PWC may request from time to time about a Contractor.
- (d) The Customer may only use contractors to undertake the Transferred Works who are accredited with PWC. If the Customer wishes to use a contractor who is not accredited that contractor must obtain accreditation before the Customer commences use of the contractor.
- (e) PWC does not recommend any specific contractor and the Customer must form its own view as to whether any contractor complies with the requirements of clause 14.2(a).

14.3 Design

- (a) Before construction of the Transferred Works commences, the Customer must provide PWC with

a copy of the proposed design for the Transferred Works and a program of works appropriate to the type of Transferred Works and obtain PWC's approval to the design and program of works.

- (b) The proposed design must be based on the Transferred Works Specifications.
- (c) The Customer must ensure that before preparing the proposed design its Contractors who will prepare that design review the Transferred Works Specifications and satisfy themselves the Transferred Works Specifications are correct. If the Contractors identify any issues with the Transferred Works Specifications, the Customer must ensure these are raised with PWC as soon as is reasonably practicable.
- (d) PWC may reject the design of the Transferred Works if PWC considers, acting reasonably, the proposed design does not meet the Transferred Works Specifications. If PWC rejects the design it will notify the Customer and provide its reasons for the rejection. The Customer must revise the design to address the reasons for rejection and resubmit it to PWC for review. This process will continue under PWC approves the design.
- (e) PWC may reject the program of works for the Transferred Works if PWC considers, acting reasonably, the proposed program is not appropriate having regard to the requirements of this Agreement and the nature of the Transferred Works and any PWC Works. If PWC rejects the program of works it will notify the Customer and provide its reasons for the rejection. The Customer must revise the program of works to address the reasons for rejection and resubmit it to PWC for review. This process will continue under PWC approves the program of works.
- (f) Unless otherwise specified, the Connection Service Charge allows for one review by PWC of the proposed design of the Transferred Works. Where PWC is required to consider the proposed design of the Transferred Works on more than one occasion (because PWC validly refused to approve the proposed design the first time PWC's approval was requested) then PWC may charge the Customer PWC's costs of considering each subsequent proposed design (after the first request).
- (g) Unless otherwise specified, the Connection Service Charge allows for one review by PWC of the proposed program of works for the Transferred Works. Where PWC is required to consider the proposed program of works for the Transferred Works on more than one occasion (because PWC validly refused to approve the program the first time PWC's approval was requested) then PWC may charge the Customer PWC's costs of considering each subsequent proposed program of works (after the first request).

14.4 Construction

- (a) The Customer must ensure that the Transferred Works:

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- (i) are constructed in accordance with the Transferred Works Specifications, the approved design, Electricity Laws, applicable Australian Standards, applicable published PWC standards and any reasonable directions given by PWC;
 - (ii) are undertaken in accordance with the approved program of works;
 - (iii) are fit for their intended purpose;
 - (iv) comply with Good Electricity Industry Practice;
 - (v) are constructed using materials which are new; and
 - (vi) are of merchantable quality.
- (b) The Customer must ensure it gives all required notifications to Government Agencies prior to commencing a stage of the Transferred Works for which such a notice is required to be given. The Customer must provide a copy of each such notice to PWC.
- (c) Without limiting clause 14.4(a) (including the requirement to comply with all applicable published PWC standards):
- (i) in undertaking the Transferred Works the Customer must comply with PWC standard "NP020 Guidelines for Developers of Subdivisions and Electricity Infrastructure" to the extent relevant given the nature of the Transferred Works; and
 - (ii) the construction and all other on-site activities relating to the Transferred Works must be undertaken in accordance with the PWC's "Safe Working Procedures" and "Access to Apparatus Materials List" as set out on PWC's website.
- (d) All materials used in the Transferred Works must be from a PWC approved manufacturer or supplier. Approved manufacturers and suppliers are set out in the "Power and Water Corporation – Power Networks – Approved Materials List" as set out on PWC's website.
- (e) The Customer must:
- (i) promptly give PWC whatever information PWC may request from time to time about the construction of the Transferred Works;
 - (ii) allow PWC to inspect the Transferred Works whenever PWC may require from time to time during their construction and, if required by PWC, the Customer must ensure that it, and any Contractor whose activities are relevant to the Transferred Works being inspected, are present during the course of that inspection and answer any questions put to them by PWC;
 - (iii) allow PWC to undertake such tests of the Transferred Works as PWC wishes to undertake to assess whether the Transferred Works comply with the Transferred Works Specifications and comply with the other requirements of this Agreement; and
 - (iv) provide such co-operation as PWC requires to allow it to undertake those tests.
- (f) If any part of the Transferred Works is sealed in an enclosure, covered up or buried before PWC has undertaken any inspection or test PWC might wish to undertake, the Customer must open the seal, uncover or expose those Transferred Works as required by PWC to enable it to undertake that inspection or test.
- (g) Unless otherwise specified, the Connection Service Charge allows for one conduct of a test or inspection by PWC. Where PWC is required to undertake a test or inspection on more than one occasion because:
- (i) the first time the test or inspection was undertaken the Transferred Works failed the test or inspection;
 - (ii) of some other deficiency in the Transferred Works; or
 - (iii) PWC, in accordance with Good Electricity Industry Practice, requires further tests or inspections,
- or if PWC is required to attend the Transferred Works Site on more than one occasion for a test or inspection because at the first attendance (or attempted attendance) PWC was denied the required access to the Transferred Works Site, then PWC may charge the Customer PWC's costs of undertaking (as applicable) each subsequent test or inspection (after the first test or inspection) or attendance.
- (h) The Customer must ensure that none of the Transferred Works encroach on any property outside the boundaries of any of the Easements.

14.5 Customer Tests

- (a) The Customer must undertake the tests:
- (i) set out in the Transferred Works Specifications;
 - (ii) as otherwise required in accordance with published PWC standards, Good Electricity Industry Practice and Electricity Laws; and
 - (iii) as otherwise reasonably requested by PWC.
- (b) When the tests have been undertaken and successfully passed, the Customer must ensure there is provided to PWC:
- (i) a certificate showing the results of those tests; and
 - (ii) a certificate certifying that every Contractor has completed its portion of the Transferred Works and agrees those works are in a condition ready for energisation.
- (c) Each certificate must be signed by the relevant Contractor and must be in the form required by PWC from time to time.
- (d) Unless otherwise specified, the Connection Service Charge allows for one conduct of a test or inspection by PWC. Where a test is required to be repeated (because the first time the test was undertaken the Transferred Works failed the test or because of some other deficiency in the Transferred Works or

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because PWC, in accordance with Good Electricity Industry Practice, requires further tests) and PWC attends at both the first undertaking of the test and at subsequent undertakings of the test then PWC may charge the Customer PWC's costs of attendance and/or undertaking each subsequent test (after the first test).

14.6 Acceptance

- (a) When the Customer considers the Transferred Works are complete it must issue a request to PWC seeking a "Handover Certificate". The request must be accompanied by the following (unless previously provided to PWC):
- (i) the certificates referred to in clause 14.5(b);
 - (ii) as constructed drawings for the Transferred Works in A1 and A3 hard copies and DGN electronic copies prepared in accordance with Good Electricity Industry Practice, published PWC standards and any requirements notified by PWC to the Customer (including filed recordings prepared after trenching and before backfilling of the exact locations of any underground cable ducts, cables and joints);
 - (iii) a certificate signed by the Customer confirming all amounts referred to in clause 14.7 have been paid;
 - (iv) a certificate signed by the Customer and each Contractor confirming compliance with clause 14.7(b);
 - (v) a "Certificate of Completion and Handover" (in such form as specified by PWC) signed by the Customer's head Contractor certifying that the Transferred Works have been completed in accordance with the approved design and the remaining requirements of this clause 14 and that all Contractor's employees, plant, materials and equipment (used for construction) are clear of the site of the Transferred Works; and
 - (vi) any other document required by Schedule 6.
- (b) The Customer must provide promptly to PWC whatever information PWC may request to satisfy PWC clauses 14.7(a) and 14.7(b) have been complied with. This information may include invoices, receipts or other documents issued by the Customer, Contractors or from the suppliers of goods and materials used in the Transferred Works.
- (c) Upon receipt of the Customer's request under clause 14.6(a), PWC will issue a Handover Certificate if PWC considers the Transferred Works are complete and PWC has received each of the documents and instruments referred to in clause 14.6(a). If PWC considers the Transferred Works are incomplete or PWC has not received each of the documents and instruments referred to in clause 14.6(a), PWC may, at its discretion, issue a Handover Certificate or refuse to issue a Handover Certificate.
- (d) If PWC refuses to issue a Handover Certificate it will notify the Customer of the reasons for the refusal and the Customer must address the reasons for refusal as soon as is reasonably practicable. Once the Customer has addressed those reasons the Customer may make a further application for a Handover Certificate which will be considered by PWC in accordance with clause 14.6(c).
- (e) Unless otherwise specified, the Connection Service Charge allows for one review of a Handover Certificate by PWC. Where PWC is required to consider more than one request for a Handover Certificate (because PWC validly refused to issue a Handover Certificate the first time it was requested by the Customer) then PWC may charge the Customer PWC's costs of considering each subsequent request for a Handover Certificate (after the first request).
- (f) If PWC issues a Handover Certificate despite PWC not having received each of the documents and instruments referred to in clause 14.6(a), this does not relieve the Customer of its obligations to comply with clauses 14.5 and clause 14.7.
- (g) The effect of a Handover Certificate is that risk in, and control of, the Transferred Works will pass to PWC. A Handover Certificate:
- (i) is not a representation by PWC that the Transferred Works comply with the requirements of this Agreement;
 - (ii) does not relieve the Customer of any liability or responsibility if the Transferred Works do not comply with the requirements of this Agreement; and
 - (iii) does not limit the Customer's obligations under clause 14.9 .

14.7 Payment of Contractors

- (a) The Customer must ensure that all Contractors engaged by the Customer, and all subcontractors to those Contractors, are paid all amounts due to them in respect of the design, construction, installation, testing and commissioning of the Transferred Works.
- (b) The Customer must provide to PWC a certificate from each of its Contractors confirming they have been paid all amounts due to them in respect of the design, construction, installation, testing and commissioning of the Transferred Works and that they have paid all their subcontractors all amounts due to them.

14.8 Title and Risk in the Transferred Works

- (a) Until a Handover Certificate is issued the Customer has control of, and all risk in, the Transferred Works. The Customer is responsible for remedying, at its own cost, any defect or deficiency in, or damage to, the Transferred Works and is responsible for any damage caused by the Transferred Works to any other property or person.

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- (b) Upon the issue of a Handover Certificate PWC will assume control of, and risk in, the Transferred Works (but without limiting the Customer's obligations under clause 14.9) and title to the Transferred Works will pass to PWC.
 - (c) The Customer must ensure no Encumbrances are created, or arise, over the Transferred Works in favour of any person and that good and unencumbered title to the Transferred Works vests in PWC. The Customer must ensure that no act or event occurs which prejudices PWC's ownership interest in the Transferred Works.
 - (d) The Customer must pay any stamp duty and other taxes which are imposed in respect of the transfer of the ownership of the Transferred Works in accordance with this clause 14.8 and arrange for any necessary stamping and registration of documents.
 - (e) The Customer must reimburse PWC for any taxation liability (including liability for income tax equivalent payments) incurred by PWC because of transfer of ownership of the Transferred Works. If specified in Schedule 2, such reimbursement must be effected by payments made at the times specified in Schedule 2.
 - (f) The Customer must provide PWC with whatever documents PWC requires from time to time to evidence or further assure its title to the Transferred Works and to confirm the Customer's compliance with this clause 14.8. These documents must be in form and substance satisfactory to PWC.
 - (g) Upon the issue of the Handover Certificate, the Customer must ensure there is transferred to PWC all of the right, title, interest and claim the Customer and its Contractors have under any manufacturers' warranties in relation to the Transferred Works. The Customer must ensure there is executed and provided to PWC such documents as PWC requires to evidence and effect that transfer.
 - (h) The Customer must provide to PWC all keys, passwords and operating and maintenance manuals in the Customer's possession or control (including the possession or control of its Contractors) which relate to the Transferred Works.
 - (i) The Customer must ensure either that any Intellectual Property Rights in the Transferred Works (including without limitation in any software or firmware forming part of the Transferred Works) and in any designs, plans or other documents relating thereto are transferred to PWC or that PWC is given a perpetual, irrevocable, transferable, world-wide licence (capable of being sub-licensed) to use those Intellectual Property Rights as required to operate, maintain, upgrade, repair, manage and otherwise utilise the Transferred Works. This clause does not extend to the Intellectual Property Rights of those entities which manufacture or distribute the actual equipment which makes up the Transferred Works in that equipment.
 - (j) The Customer must ensure such documents are executed or entered into as PWC requires to ensure the effective transfer or grant of the Intellectual Property Rights referred to in clause 14.8(h) and that PWC is able to utilise and modify all documents the subject of those rights. Such documents required to be entered into may include moral rights waivers by the authors of any design or other documents.
 - (k) The Customer must ensure that the Transferred Works do not infringe the Intellectual Property Rights of any person.
- ### 14.9 Defects Liability Period
- (a) A defect in the Transferred Works means any faulty workmanship, any defective goods, materials, software, firmware or hardware or other items comprising all or part of the Transferred Works or any non-compliance of the Transferred Works with the requirements of this Agreement.
 - (b) If any defect in the Transferred Works is identified during the Original Defects Liability Period then the Customer must, at PWC's option:
 - (i) rectify that defect within such reasonable period specified by PWC and to PWC's satisfaction; or
 - (ii) reimburse PWC the costs of rectifying the defect.
 - (c) What is a reasonable time for the purposes of clause 14.9(b) will be determined by PWC having regard to all relevant factors, including any safety and legal issues created by the defect and the immediacy of the threat to the Electricity Network. Where the Customer fails to rectify the defect within the period specified by PWC (or where PWC reasonably forms the view the Customer will not be able to rectify the defect within that period) then PWC may proceed to undertake the rectification of the defect.
 - (d) The Customer must reimburse PWC the costs PWC incurs in rectifying a defect (whether pursuant to clause 14.9(b) or clause 14.9(c)).
 - (e) Nothing in this clause 14.9 limits any other rights, powers or remedies PWC may have against the Customer or the Contractors in respect of any defect or deficiency in the Transferred Works.
 - (f) Shortly before the end of the Original Defects Liability Period PWC will undertake an inspection of the Transferred Works. The Customer or a Contractor nominated by the Customer may attend that inspection. If any defects are identified during that inspection then clauses 14.9(b) and clause 14.9(c) will apply to them. Upon completion of the inspection or rectification of any defects identified during that inspection (whichever occurs later) PWC will issue a certificate acknowledging the Original Defects Liability Period has ended. Even if more than 2 years of the Original Defects Liability Period has elapsed the Original Defects Liability Period will not be taken to have ended until such certificate is issued.

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- (g) If the Customer rectifies a defect under clause 14.9(b), then there will be a further defects liability period in respect of the rectified defect of 12 months from completion of the rectification. Clauses 14.9(b) to 14.9(e) will apply to any defect identified during that additional 12 month period. Issue of a certificate under clause 14.9(f) does not affect the continuing operation of such additional 12 month periods.

14.10 Transferred Works Security

- (a) The Customer must provide to PWC the Transferred Works Security in the amount specified in Schedule 1.
- (b) The Transferred Works Security must be an unconditional, irrevocable bank guarantee from a financial institution acceptable to PWC (with an office in Darwin at which the Transferred Works Security may be presented for payment) and otherwise be on terms acceptable to PWC.
- (c) The financial institution providing the Transferred Works Security must have a credit rating of at least A- (Standard & Poor's) or A3 (Moody's Investor Services).
- (d) PWC may call on the Transferred Works Security to recover any amount owing to it under clause 14.9 or for any amount of loss or damage it suffers or costs or expenses it incurs due to the Customer's breach of this clause 14.
- (e) The Customer must ensure that the Transferred Works Security remains in place until the expiry of the Defects Liability Period.
- (f) The Customer must not seek to restrain or prevent PWC from calling on the Transferred Works Security, the issuer of the Transferred Works Security from paying any amount pursuant to the Transferred Works Security or PWC from using or applying any amount obtained by it by calling on the Transferred Works Security.
- (g) If the Transferred Works Security ceases to be valid, binding or enforceable, the issuer of the Transferred Works Security claims that it is no longer valid, binding or enforceable or the issuer of the Transferred Works Security ceases to have a credit rating of at least the amount referred to in clause 14.10(c) then the Customer must within 5 Business Days provide to PWC new Transferred Works Security complying with the requirements of this clause 14.10.
- (h) If at any time the uncalled amount of the Transferred Works Security is less than the amount required by Schedule 1 (including because PWC has called upon the Transferred Works Security) then the Customer must within 5 Business Days provide PWC with an additional or replacement bank guarantee so the amount of the Transferred Works Security held by PWC is not less than the amount specified in Schedule 1. Without limiting PWC's other rights, if the Customer fails to do so, then PWC may call on the Transferred Work Security and hold the amount called down as cash security for the performance of the Customer's obligations under clause 14.9.

15. Conditions to Energisation

PWC will not establish or complete or energise a Connection or upgraded Connection until:

- (a) the PWC Works have achieved Completion;
- (b) the Customer has notified PWC the Customer Works are completed and ready for Connection;
- (c) the Customer's Retailer has agreed to the energisation (unless the Customer does not have and is not required to have a Retailer);
- (d) PWC has completed all inspections and testing it requires in respect of the Customer Works and is satisfied the Customer Facilities are in a condition suitable for Connection and energisation;
- (e) the Customer has provided to PWC a signed written statement from an appropriately qualified representative of the Customer certifying that the Customer Works have been designed and installed in accordance with the requirements of this Agreement;
- (f) all Approvals for the Customer Facilities are in place;
- (g) where the Customer is undertaking Transferred Works, a Handover Certificate has been issued by PWC;
- (h) there are no Encumbrances in respect of the Transferred Works;
- (i) Survey Plans for all Easements and leases required to be granted to PWC as part of the Land Access Rights have been prepared in a form satisfactory to PWC;
- (j) the Customer has ensured that all Easements and leases required to be granted to PWC as part of the Land Access Rights have been registered (in a manner satisfactory to PWC) against the titles to the relevant land;
- (k) PWC has approved such Operating Protocols as PWC requires be approved as a condition to establishment, completion or energisation of the Connection;
- (l) PWC has approved such Customer Asset Management Plans (as defined in clause 20.9) as PWC requires be approved as a condition to establishment, completion or energisation of the Connection;
- (m) in the case of Generation Facilities the Customer has satisfied PWC the Customer has entered into all necessary arrangements to ensure electricity exported by the Customer into the Electricity Network is purchased by a person lawfully entitled to purchase such electricity;
- (n) PWC has received all Connection Service Charges and other amounts payable under this Part 2 in cleared funds; and
- (o) the Customer has discharged all of its obligations under this Agreement (other than those which, of their nature, arise or are not required to be discharged prior to energisation of the Connection).

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16. Termination due to events impacting Works

- (a) PWC may terminate this Agreement if:
 - (i) the Customer's acts or omissions cause delays of a period of more than 90 days to the undertaking of the PWC Works;
 - (ii) the Customer has not completed the Customer Works and any Transferred Works within the period specified in Schedule 1; or
 - (iii) due to Latent Conditions PWC is unable to complete the PWC Works.
- (b) On termination of this Agreement under clause 16(a), clause 42.4, clause 43.3(b) or clause 44 PWC may disconnect, dismantle and remove any of the PWC Works.
- (c) If PWC terminates this Agreement under clause 16(a), clause 43.3(b) or clause 44 or this Agreement is terminated under clause 42, then the Customer must pay PWC:
 - (i) all costs incurred by PWC in undertaking the PWC Works and otherwise discharging its obligations under this Agreement up until the time PWC ceases the PWC Works;
 - (ii) any other amounts (other than the Connection Service Charge) PWC is entitled to invoice under this Part 2; and
 - (iii) all costs PWC incurs due to the cancellation of the PWC Works, including, without limitation, demobilisation costs, costs of removing partially completed works or otherwise making them safe and costs of cancelling subcontracts (or portions thereof),
- (d) except to the extent (if any) that such costs are recouped by any payments made by the Customer to PWC prior to the termination of this Agreement. PWC may issue one or more invoices to the Customer for amounts payable under this clause 16 and the Customer must pay those invoices within 21 days of their receipt.
- (e) Nothing in this clause 16 will limit either party's right to recover damages from the other party for breach of contract.
- (c) The financial institution must have a credit rating of at least A- (Standard & Poor's) or A3 (Moody's Investor Service).
- (d) The purpose of the Revenue Security is to provide assurance against any estimated incremental revenue assumed by PWC in calculating the Connection Service Charge which PWC considers at risk of not being recovered.
- (e) The Customer must ensure that the Revenue Security remains in place for the period specified in Schedule 2.
- (f) At the end of each year from the commencement of provision of a Supply Service to the Customer, PWC will assess if the amount of Revenue Security is greater than the amount required under Schedule 2 as at the end of that year. If it is greater than the amount required under Schedule 2 at that time, then PWC will release the existing Revenue Security but only once the Customer has provided to PWC replacement Revenue Security for the amount specified in Schedule 2 as required to be provided at that time.
- (g) PWC may call upon the Revenue Security from time to time if PWC does not receive, from the Customer or any subsequent owner or occupier of the Site, the stream of revenue assumed by PWC in calculating the Connection Service Charge.
- (h) The Customer must not seek to restrain or prevent PWC from calling on any Revenue Security, the issuer of the Revenue Security from paying any amount pursuant to that Revenue Security or PWC from using or applying any amount obtained by PWC by calling on the Revenue Security.
- (i) If the Revenue Security ceases to be valid, binding or enforceable, the issuer of the Revenue Security claims that it is no longer valid, binding or enforceable or the issuer of the Revenue Security ceases to have a credit rating of at least the amount referred to in clause 17(c), then the Customer must within 5 Business Days provide PWC with replacement Revenue Security in the amount required by Schedule 2.
- (j) This clause 17 will continue to operate until such time as Revenue Security is no longer required to be provided pursuant to Schedule 2 and survives the termination of this Agreement and the expiry of the remainder of this Agreement.

17. Revenue Security

- (a) If a Revenue Security is specified in Schedule 2, the Customer must provide that Revenue Security to PWC.
- (b) The Revenue Security must be an irrevocable, unconditional bank guarantee from a financial institution acceptable to PWC (with an office in Darwin at which the Revenue Security may be presented for payment) and must be on terms acceptable to PWC.

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18. Services

- (a) Subject to the terms of this Agreement, as from the date the relevant Exit Point or Entry Point is energised under clause 15 (or from such other date specified in Schedule 1) PWC will:
- (i) at each Exit Point, permit the Customer to take electricity from the Electricity Network at a rate up to but not exceeding the CMD but, at a given time, not exceeding the Power Transfer Capability of the Exit Point at that time; and
 - (ii) at each Entry Point, permit the Customer to deliver electricity into the Electricity Network at a rate up to but not exceeding the DSOC but, at a given time, not exceeding the Power Transfer Capability of the Entry Point at that time.
- (b) The CMD and the DSOC are, respectively, the maximum quantity of electricity the Customer may take from or deliver into the Electricity Network. The actual quantity of electricity the Customer may take from or deliver into the Electricity Network from time to time, and the quality and frequency of electricity supply, will be affected by Power System conditions, fluctuations and interruptions from time to time and a number of other factors including without limitation:
- (i) the location of the Connection Point;
 - (ii) whether the Connection Point is served by underground or overhead infrastructure;
 - (iii) weather conditions;
 - (iv) the existence of Emergencies;
 - (v) the design and technical limitations of the Electricity Network;
 - (vi) directions of the Power System Controller;
 - (vii) directions of the Market Operator;
 - (viii) switching carried out by PWC, the Power System Controller or persons engaged in the generation of electricity; and
 - (ix) the aggregate demand for electricity from the Electricity Network.
- (c) PWC does guarantee or represent to the Customer that:
- (i) the supply of electricity will be without Interruption;
 - (ii) there will be no variations in the quality or frequency of electricity supply; or
 - (iii) the Customer's ability to deliver electricity into the Electricity Network will not be Interrupted.

19. Customer's Obligations

19.1 General Technical Obligations

- (a) The Customer must:
- (i) operate, control and maintain the Customer's Facilities in accordance with Electricity Laws, any Approvals relating to the Customer's Facilities, the requirements set out in Schedule 8 and Good Electricity Industry Practice;
 - (ii) not deliver or take electricity at a Connection Point which exceeds the technical limits of that Connection Point or the Electricity Network;
 - (iii) comply with any directions issued by the Power System Controller;
 - (iv) comply with any directions issued by the Market Operator;
 - (v) maintain the Customer's Facilities in a safe condition;
 - (vi) ensure the protection of any PWC assets located on the Site;
 - (vii) ensure that all structures and vehicles are kept clear of PWC assets located on the Site; and
 - (viii) develop operating procedures for site specific operation of the Customer's Facilities to ensure they do not create any safety hazards or interfere with the Electricity Network, obtain PWC's approval to such operating procedures and comply with any such procedures.
- (b) The Customer must not:
- (i) allow electricity supplied by PWC to be used other than at the Site;
 - (ii) use at the Site electricity supplied for use at another site;
 - (iii) tamper with or permit tampering with any metering equipment or associated equipment;
 - (iv) allow electricity supplied to the Site to bypass the metering equipment;
 - (v) damage or interfere with PWC's equipment;
 - (vi) make any connection to the Electricity Network other than at a Connection Point;
 - (vii) use or cause to be used or generate electricity in a manner that:
 - (A) interferes with the Electricity Network;
 - (B) interferes with the reliability of supply or quality of supply to other customers;
 - (C) causes damage or interference to any third parties;
 - (viii) give PWC any false or misleading information about which tariffs or charges should apply to the Customer;

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- (ix) where electricity is supplied to the Customer on the basis of a particular tariff, use that electricity for a purpose other than that contemplated by that tariff;
 - (x) exceed the CMD for an Exit Point;
 - (xi) exceed the DSOC for an Entry Point;
 - (xii) take electricity from the Electricity Network or deliver electricity into the Electricity Network in a manner which is inconsistent with any directions issued to the Customer by the Power System Controller or Market Operator; or
 - (xiii) permit any person to undertake maintenance or other work on the Customer Facilities unless they are appropriately qualified and licenced as required by Electricity Laws.
- (c) The Customer must notify PWC as soon as practicable if the Customer fails to comply with a requirement of this clause 19.1.
- (d) Where the Customer fails to comply with any requirement of clause 19.1, then PWC may direct Customer to make such changes required to the Customer Facilities as PWC (acting reasonably) considers are required to address the failure and the Customer must comply with such a direction.
- (e) If as a result of an inspection or testing carried out by the Customer or any other person, whether under this Agreement or otherwise, it is identified that there is a lack of functionality of the safety features of the Customer Facilities then the Customer must:
- (i) immediately disconnect, or arrange for the disconnection of, the Customer Facilities from the Electricity Network in a safe manner;
 - (ii) not reconnect, or arrange for the reconnection of, the Customer Facilities to the Electricity Network until the lack of functionality has been rectified; and
 - (iii) provide to PWC a copy of the results of the inspection and testing.
- (f) The Customer must comply with all reasonable directions PWC gives the Customer regarding the maintenance and inspection of the Customer Facilities.
- (g) The Customer must ensure that any work performed on or in relation to the Customer Facilities is undertaken by a person lawfully permitted to do such work, and make a copy of any relevant certificates of compliance available to PWC (unless PWC notifies the Customer PWC does not require them).
- (h) The Customer must comply with any reasonable requirement PWC makes in relation to the installation of additional equipment on or in connection with the Customer Facilities that PWC specifies as necessary to ensure the safe and reliable operation of the Electricity Network.

20. Maintenance and operational issues

20.1 Switching

Switching by either party may be necessary to provide isolation, and where applicable earthing of the high or low voltage equipment, to allow the other party to carry out work.

20.2 Switching for planned maintenance or other work

- (a) Each party (Party A) must perform Switching on its Equipment as requested by the other party (Party B) to allow planned maintenance or other work by Party B, subject to Party B complying with the requirements of clause 20.2(b).
- (b) Party B must provide Party A with at least 20 Business Day's' written notice of any Switching which Party B will require of Party A.
- (c) Switching must be undertaken in accordance with any directions given by PWC.

20.3 Switching for Emergency Conditions

Each party must have operating staff available to ensure minimal delay in performing any Switching on its Equipment which is requested at short notice by the other party due to an Emergency condition.

20.4 Switching for urgent maintenance or other work

Each party must have operating staff available to ensure minimal delay in performing any Switching on its Equipment which is requested at short notice by the other party in order to perform urgent maintenance or other work.

20.5 Coordination of Planned Maintenance

The parties must:

- (a) use reasonable endeavours to ensure the coordination of their respective maintenance programs so as to maximise the legitimate interests of all persons who use the Electricity Network; and
- (b) not unreasonably delay or restrict the other party from performing maintenance work which is necessary for that party to conform with Good Electricity Industry Practice or any asset management plan developed under clause 20.9.

20.6 Requests for rescheduling of maintenance or other work

- (a) In relation to any maintenance or other work which is being or is to be carried out on the Electricity Network:
- (b) PWC must give reasonable consideration to a reasonable request by the Customer to reschedule the maintenance or other work;
- (c) the Customer must reimburse PWC for all additional and consequential costs associated with the rescheduling of the maintenance or other work;

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- (d) if requested by the Customer, PWC will provide the Customer an estimate of the additional costs which will arise under clause 20.6(b) and upon receipt of such estimate the Customer may withdraw its request for rescheduling of the maintenance or other work;
- (e) the Customer accepts any consequential lower reliability and availability afforded to the Customer by, and Interruptions consequent upon, the rescheduling of the maintenance or other work; and
- (f) the parties must use reasonable endeavours to ensure that the maintenance or other work is rescheduled so as to be completed at the earliest available opportunity.

Any estimate provided by PWC under clause 20.6(c) is non-binding and does not limit the costs payable by the Customer under clause 20.6(b).

20.7 Minimisation of Outages

The parties must use their reasonable endeavours and employ Good Electricity Industry Practice to minimise the duration of any Equipment outage due to the undertaking of maintenance.

20.8 Safety Information

The Customer must provide PWC with such information concerning the safety and security of any of the Customer Facilities as PWC may require to discharge its obligations or exercise its rights under this Agreement or under any Electricity Law or as required by PWC for the operation and maintenance, or preservation of the integrity, of the Electricity Network.

20.9 Asset Management Plans

- (a) If required by PWC, and by such date specified by PWC acting reasonably, the Customer must, in a manner which is consistent with Good Electricity Industry Practice, develop an asset management plan covering the Customer Facilities (Customer Asset Management Plan).
- (b) The Customer must update its Customer Asset Management Plan if there is a change in requirements of Electricity Laws or Good Electricity Industry Practice or any change to the Customer Facilities which impacts that plan. PWC may direct the Customer to update its Customer Asset Management Plan if the Customer has not made an update in response to such change.
- (c) The Customer Asset Management Plan must set out the procedures to be followed by the Customer to ensure:
 - (i) it complies with the requirements of this Agreement;
 - (ii) it complies with the requirements of Electricity Laws; and
 - (iii) it complies with Good Electricity Industry Practice in its operation and maintenance of the Customer Facilities.

- (d) The Customer must provide the Customer Asset Management Plan (including any updated plan) to PWC for review and must make any changes to that plan which PWC requires for the purposes of preserving the integrity of the Electricity Network.
- (e) The Customer must comply with the most recent version of its Customer Asset Management Plan approved by PWC.

20.10 Operating Protocol Agreement

- (a) Each party must comply with the Operating Protocols in addressing operational issues under this Agreement, including for maintenance coordination.
- (b) PWC may, acting reasonably, require the parties to agree further Operating Protocols or to modify the existing Operating Protocols and, if so, the parties must negotiate in good faith and use their reasonable endeavours to agree and document such additional or revised protocols as expeditiously as is reasonably practicable.
- (c) PWC may require modification of the Operating Protocols if there are changes made to the Electricity Network which PWC, acting reasonably, considers require such modifications. PWC will notify the Customer of its proposed modifications to the Operating Protocols and allow the Customer 10 Business Days to comment on those changes. PWC will act reasonably in considering any comments provided by the Customer and then notify the Customer of the revised form of the Operating Protocols.

20.11 Good Electricity Industry Practice

Each party must comply with Good Electricity Industry Practice in respect of all operational matters under this Agreement, including:

- (a) in operating, maintaining, constructing and commissioning of its Equipment; and
- (b) in transferring electricity to or taking electricity from the Electricity Network.

21. Performance and Development

21.1 Forecasts and Scenarios

The Customer must provide to PWC data, forecasts and information as required by PWC (by notice to the Customer from time to time) to assist in the planning and development of the Electricity Network.

21.2 Meeting of Parties

- (a) The parties must meet when it is mutually agreed, but (if required by PWC) at least once every calendar year of the term of this Agreement, to:
 - (i) review the performance at the Connection Point(s); and
 - (ii) discuss and resolve any other issues which may be relevant to the parties' ongoing relationship.

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- (b) The parties must meet at more frequent intervals where this is necessary to fulfil their obligations as set out in this Agreement.

21.3 Incidents

- (a) Where a significant incident occurs within the Customer Facilities, and the incident had or has the potential to impact on PWC's ability to fulfil its obligations under this Agreement or Electricity Laws or adversely impact the Electricity Network, then the parties must meet as soon as possible after the occurrence of the incident to discuss and resolve any relevant issues.
- (b) The Customer must provide PWC with all known relevant information in relation to the incident. Within 7 days following the meeting, the Customer must make available to PWC a written report which contains the following:
- (i) a description of the incident and its impact;
 - (ii) the cause of the incident and any relevant findings; and
 - (iii) recommendations to mitigate or prevent a recurrence.

22. Access

22.1 Mutual right of access

A party must provide the other party with access to its property where such access is necessary to fulfil that other party's obligations under this Agreement.

22.2 Access to Customer's Premises

In addition to the right of access given under clause 22.1, the Customer must give PWC access to the Site:

- (a) where such access is necessary to fulfil PWC's obligations under this Agreement or under Electricity Laws;
- (b) to allow PWC to conduct inspections of the Customer Facilities, including their operation and maintenance; and
- (c) to allow for the inspection and testing of Customer Facilities to be conducted by PWC in accordance with Electricity Laws.

22.3 Procedures relating to Access

In exercising its rights of access under this clause 22 a party must comply with:

- (a) Schedule 11; and
- (b) any other documented controlled record of access procedures agreed between the parties from time to time (which may add to or modify the principles in Schedule 11).

22.4 Survive termination

This clause 22 will survive termination or expiry of this Agreement for a period of 6 months.

23. PWC Obligations

PWC must operate and maintain the Electricity Network in accordance with Electricity Laws.

24. Information, Records and Audit

24.1 Information and data

- (a) The Customer must provide to PWC, promptly on request, the technical data specified in Schedule 10 and any other technical data or information required by PWC.
- (b) The Customer must:
 - (i) regularly review this technical data to ensure its accuracy is maintained in accordance with Good Electricity Industry Practice; and
 - (ii) promptly advise PWC of any material change in the data.

24.2 Records

- (a) The Customer must maintain records, data and other information which is reasonably required by PWC or which are specified in Schedule 10. The records must be maintained in sufficient detail to permit the performance of this Agreement.

The Customer must provide copies of such records, **data and information to PWC upon request.**

25. Interruptions and Disconnection

25.1 Authority to Interrupt

- (a) PWC may Interrupt the delivery of electricity at an Entry Point or the supply of electricity at an Exit Point at any time for one or more of the following purposes:
 - (i) inspecting, testing, repairing, adjusting or removing the Electricity Network;
 - (ii) inspecting or testing the Customer Facilities;
 - (iii) maintaining the safe and efficient operation of the Electricity Network;
 - (iv) complying with the directions of the Power System Controller, the Market Operator or a Government Agency;
 - (v) to address or avoid an Emergency;
 - (vi) for health or safety reasons;
 - (vii) to prevent damage to the Electricity Network;
 - (viii) to permit PWC to connect other customers to the Electricity Network; and
 - (ix) in accordance with Electricity Laws.
- (b) In exercising its rights under clause 25.1(a) PWC will act in accordance with any applicable requirements of Electricity Laws and act in accordance with Good Electricity Industry Practice.

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- (c) PWC will only Interrupt the delivery or supply of electricity under clause 25.1(a) for such period as reasonably required given the circumstances requiring the Interruption.
- (d) To the extent practicable given the circumstances of the Interruption and the number of customers affected by events or circumstances referred to in clause 25.1(a), PWC will give the Customer reasonable prior notice of an Interruption.
- (e) Where an Interruption is to undertake planned maintenance of the Electricity Network PWC will give the Customer 4 Business Days' notice of the Interruption.
- (f) If PWC directs the Customer that for a period because of an Interruption it must not take electricity from the Electricity Network above a specified level or must not deliver electricity into the Electricity Network above a specified level, the Customer must comply with any such direction. If the Customer fails to do so, PWC may take such action as it considers is required to ensure the Customer complies with that direction and the Customer must reimburse PWC the costs of taking such action.
- (g) To the extent permitted by Law, PWC has no liability to the Customer for an Interruption unless that Interruption was caused by PWC's negligence or bad faith.
- (h) The Customer warrants to PWC that the Customer has made an assessment of the measures the Customer will take (including insurance or installation of protection devices) to address the risks to the Customer of any Interruption, and has taken appropriate measures to address that risk.
- (d) where required due to health and safety reasons;
- (e) to manage or address or avoid an Emergency;
- (f) where required by a direction of a Government Agency;
- (g) where required or permitted to do so by any Electricity Law;
- (h) if it ceases to be lawful for the Customer to own or operate the Customer Facilities; and
- (i) if PWC is directed to do so by the Customer's Retailer.

25.4 Implementing Interruption and Disconnection

25.2 Automatic Load Shedding

Where the Customer's CMD exceeds 10 MW, the Customer must install, operate and maintain automatic load shedding facilities for 60 percent of its load at any time in accordance with Schedule 3 .

25.3 Disconnection

Subject to and to the extent permitted by Electricity Laws, PWC may immediately proceed to disconnect the Customer Facilities from the Electricity Network in each of the following circumstances:

- (a) where the Customer fails to comply with this Agreement, and such failure threatens the integrity or reliability of the Electricity Network or inhibits PWC's ability to operate and maintain the Electricity Network and comply with PWC's obligations under Electricity Laws, provided such failure is not remedied by the Customer within the period specified by PWC;
- (b) where the Customer commits any other breach of this Agreement (to a breach referred to in clause 25.3(a)) and the Customer fails to remedy that breach within 30 days of notice from PWC;
- (c) where the Customer commits any intentional unlawful act in respect of the Customer Facilities or the Electricity Network;
- (a) PWC will comply with the provisions of Electricity Laws when PWC disconnects the Customer Facilities from the Electricity Network.
- (a) The Customer must comply with any directions given by PWC to enable PWC to Interrupt the Customer or disconnect the Customer Facilities in accordance with this clause 25 or any other provision of this Agreement.
- (a) Where PWC disconnects the Customer Facilities, the Customer must ensure the protection and the safe operation and shutdown of the Customer Facilities.
- (a) Where the reason for the disconnection of the Customer Facilities was the Customer's failure to comply with this Agreement or Electricity Laws or another wrongful act or omission by the Customer, then the Customer must, subject to Electricity Laws, reimburse PWC for the costs incurred in implementing the disconnection.
- (a) If PWC disconnects the Customer Facilities, PWC will give the Customer such notice as required by Electricity Laws or, where Electricity Laws do not set out any notification requirements, then PWC will give the Customer notice as soon as reasonably practicable after PWC make the decision to disconnect (which, to avoid doubt, may be after the disconnection has occurred).

25.5 Reconnection

- (a) Where the reason for a disconnection was the Customer's failure to comply with this Agreement or failure to comply with Electricity Laws or another wrongful act or omission of the Customer, then PWC will reconnect the Customer Facilities if:
 - (i) within 10 days of the disconnection the Customer remedies (to PWC's reasonable satisfaction) the matter which led to the disconnection; and
 - (ii) the Customer pays the applicable reconnection charge (as notified to the Customer by PWC).
- (b) Where the reason for the disconnection was an instruction given to PWC by the Customer's Retailer to effect such disconnection, then PWC will reconnect the Customer Facilities if instructed to do so by the Customer's Retailer, provided the Customer pays the applicable reconnection charge (as notified to the Customer by PWC).

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- (c) If the Customer Facilities have been disconnected in circumstances referred to in clause 25.5(a) and within 30 days the Customer has not remedied to PWC's reasonable satisfaction the matter which lead to the disconnection then PWC may by notice to the Customer terminate this Agreement.
- (d) Where the reason for the disconnection was any other matter (to that referred to in clause 25.5(a) or clause 25.5(b)), then PWC will reconnect the Customer Facilities as soon as reasonably practicable after the matter requiring the disconnection has been addressed such that disconnection is no longer required. In determining what is "as soon as reasonably practicable" regard is to be had to the fact that where a matter affects a large number of premises, then PWC will need to prioritise, in such manner as PWC consider appropriate having regard to Electricity Laws and PWC's contractual obligations, the undertaking of the reconnection.
- (e) The Customer must ensure that PWC has such access to the Site as is required by PWC to arrange for the reconnection of the Customer Facilities and the Customer must comply with any reasonable directions given by PWC to enable PWC to undertake that reconnection. To the extent the matter is within the Customer's control, the Customer must ensure the safe undertaking of that reconnection.

25.6 Customer as a DCA Provider

- (a) In this clause 25.6:
 - (i) DCA Assets means dedicated connection assets owned by the Customer which connect to the Electricity Network; and
 - (ii) DCA Customer means a person whose direct physical connection is to the DCA Assets.
- (b) This clause 25.6 applies if the Customer Facilities include DCA Assets.
- (c) The Customer must not permit a person to connect to the DCA Assets unless notified by PWC that person is party to contractual arrangements with PWC permitting that person to take delivery of electricity from or supply electricity into the Electricity Network via the DCA Assets.
- (d) The Customer:
 - (i) must, in accordance with the terms of the direction, disconnect or Interrupt any DCA Customer where directed by PWC (which direction PWC may give if permitted by PWC's contractual arrangements with the DCA Customer or by Electricity Laws);
 - (ii) acknowledges that if the Customer fails to do so (or if PWC considers the circumstances require PWC to take immediate action without first giving a direction to the Customer) that PWC may take such steps as PWC considers required to give effect to the disconnection or Interruption;
- (iii) acknowledges PWC may take steps to Interrupt the delivery of electricity to or supply of electricity from the Customer Facilities as required to give effect to any rights PWC has under its contractual arrangements with a DCA Customer; and
- (iv) must permanently disconnect a DCA Customer if PWC notifies the Customer that there are no contractual arrangements in place between PWC and the DCA Customer permitting the DCA Customer to deliver electricity into or take electricity from the Electricity Network.
- (e) Nothing in this clause 25.6 limits PWC's remaining rights under this Agreement, including its right under the preceding provisions of this clause 25.

26. Fault reporting

- (a) The Customer must notify PWC as soon as reasonably practicable if the Customer becomes aware of any fault or irregularity in the Customer Facilities.
- (b) Where the Customer notifies PWC of a fault or irregularity in the Customer Facilities or PWC otherwise becomes aware of a fault or irregularity in the Customer Facilities, then PWC will undertake such investigation of the fault or irregularity as PWC consider appropriate having regard to Good Electricity Industry Practice and Electricity Laws.
- (c) Where the fault or irregularity was caused by the Customer Facilities or by the Customer's failure to comply with this Agreement, then the Customer must:
 - (i) take such steps in relation to the Customer Facilities as required to remedy the fault or irregularity and provide such evidence as PWC requires to substantiate that such steps have been successfully taken; and
 - (ii) pay PWC's costs of investigating the fault or irregularity, for taking any steps in respect of the Electricity Network due to the fault or irregularity and for any review PWC undertakes of the steps the Customer takes to remedy the fault or irregularity.

27. Operation, work and approvals

- (a) The Customer must ensure that the Customer Facilities are operated and maintained in a manner that does not compromise the safe operation of the Electricity Network (under normal or abnormal conditions), do not cause damage to the Electricity Network and do not interfere with the continuity or quality of supply provided by the Electricity Network (whether to the Customer or any other customer).
- (b) The Customer must:
 - (i) provide to PWC a copy of all Approvals relating to the Customer Facilities;

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- (ii) notify PWC as soon as practicable if there is a change to, including without limitation a revocation of, any such Approval and provide to PWC a copy of the revised Approval or document effecting the revocation; and
 - (iii) notify PWC if the Customer has reason to believe that an Approval may be revoked and the revocation would have the effect that it would cease to be lawful for the Customer to own and/or operate the Customer Facilities.
- (c) The Customer must ensure that there are contactable at all times (24 hours a day, 7 days a week) authorised and duly qualified personnel who are able to attend to emergencies and other urgent situations in respect of the Customer Facilities and ensure PWC has up to date phone numbers and email addresses for such personnel.

28. Protection systems

- (a) Without limiting the Customer's obligations under Electricity Laws, the Customer must utilise electrical protection and control systems to ensure the operation of the Customer Facilities does not adversely impact the safety and integrity of the Electricity Network.
- (b) The Customer acknowledges that failure by the Customer to install all or any part of the electrical protection and control systems referred to in clause 28(a) or failure of all or any part of those systems may result in damage to the property at the Site, the Electricity Network or the supply of electricity to the premises of other users of the Electricity Network.
- (c) The Customer must indemnify PWC and keep PWC indemnified and held harmless against any losses or damages suffered and costs and expenses incurred by PWC due to:
 - (i) failure by the Customer to install all or any part of the electrical protection and control systems referred to in clause 28(a) or which are required by Electricity Laws; or
 - (ii) the failure of all or any part of those systems.
- (d) The Customer must test the protection and control systems at such intervals as are required by Electricity Laws, Good Electricity Industry Practice and in accordance with any protocols agreed by PWC and the Customer.

29. Record keeping, inspection and testing

- (a) The Customer must keep adequate records in accordance with Good Electricity Industry Practice of all inspections, testing and maintenance undertaken with regard to the Customer Facilities and provide these to PWC for inspection upon request.
- (b) The Customer must carry out such inspection and testing of the Customer Facilities (including

protection systems) as PWC reasonably requires (whether because of a fault or incident which has arisen in respect of the Customer Facilities or otherwise).

- (c) The Customer must give PWC as much notice as is reasonably practicable of any inspection or testing under clause 29(b).
- (d) Any inspection or testing under clause 29(b) must be carried out in the presence of PWC representative if required by PWC.
- (e) Where inspection or testing under clause 29(b) is required because of a fault or irregularity in the Customer Facilities, because of a direction given by a Government Agency or because of the Customer's failure to comply with this Agreement, then the Customer must pay PWC's costs for attending such inspection or testing.
- (f) The Customer must, from time to time when requested by PWC, provide, at the Customer's cost, such information reasonably requested by PWC to enable PWC to exercise PWC's rights or discharge PWC's obligations under this Agreement or Electricity Laws or as required by PWC for the general management of the Electricity Network. Such information must be provided in the form and within the timeframe reasonably requested by PWC.

30. Remedy of non-compliance

- (a) PWC may notify the Customer if, in PWC's reasonable opinion, the Customer Facilities do not or may not comply with the requirements of this Agreement or the Customer may have otherwise breached this Agreement.
- (b) If a notice is served under clause 30(a), the Customer must undertake such testing, inspection and monitoring as required to determine whether the Customer is complying with the requirements of this Agreement and, where the Customer is not so complying, must undertake such remedial action as necessary to ensure the Customer complies with the requirements of this Agreement. This includes, without limitation, undertaking such testing, inspection, monitoring and other remedial action as reasonably required by PWC.
- (c) The Customer must pay PWC's costs of undertaking or reviewing tests, inspections or monitoring, or reviewing actions taken by Customer, under this clause 30.

31. Modifications to Customer Facilities

- (a) The Customer must notify PWC prior to making any modification to the Customer Facilities and not make that modification until PWC agrees to it being made. PWC will not unreasonably withhold that agreement. However, if the proposed modification requires PWC (having regard to Electricity Laws and Good Electricity Industry Practice) to modify the Electricity

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Network (including a Connection Point) or otherwise requires an application under the NT NER or other Electricity Laws, PWC may notify the Customer that the Customer must make an application under the NT NER (or such other provisions of Electricity Laws as may be relevant) before that modification may be made. Further, there may be some modifications PWC will not agree to due to the requirements of Electricity Laws and Good Electricity Industry Practice.

- (b) Without limiting clause 31(a), the Customer must not make any:
- (i) change to protection and control settings that may in any way impact the detection of faults or abnormal conditions or the time required to disconnect the Customer Facilities from the Electricity Network;
 - (ii) change that poses a threat to the safety or integrity of the Electricity Network; or
 - (iii) change that may affect the safety, quality, reliability or metering of the supply of electricity to the Site.
- (c) PWC will consider any request for PWC consent under clause 31(a) in accordance with the requirements of Electricity Laws. PWC may, subject to Electricity Laws, charge the Customer for PWC's costs of considering whether to grant that consent. Where PWC is required, by Good Electricity Industry Practice or Electricity Laws, to consult with any other electricity industry participants in respect of the request, the Customer must pay, or reimburse to PWC, any charges levied by those other electricity industry participants.
- (d) Where PWC consents to a modification being made to the Customer Facilities, the Customer must comply with any conditions PWC reasonably imposes as a condition of PWC consent to the making of that modification. Those conditions may include (without limitation) that the Customer pay PWC's costs for any review, inspection or testing PWC undertakes in respect of the modification.
- (e) PWC's consent is not required to modifications which involve only replacement of parts of the Customer Facilities with like for like replacements such that there is no change to the capacity or technical configuration of the Customer Facilities.
- (f) If:
- (i) the Customer wishes to cease using the Customer Facilities; or
 - (ii) the Customer is required by this Agreement to permanently disconnect the Customer Facilities (including where this Agreement ends),

then Customer must (and in the case of clause 31(f)(i) after having given 20 Business Days prior notice in writing to PWC) safely disconnect the Customer Facilities from the Electricity Network so that the Customer Facilities no longer receive or deliver electricity from or to the

Electricity Network and no longer have any impact on the Electricity Network. The Customer must comply with any conditions reasonably imposed by PWC as to the procedure to be followed and other conditions to be met in undertaking that disconnection. PWC may require that the Customer pay PWC's costs for any review, inspection or testing PWC undertakes in respect of the disconnection and decommissioning.

32. Facility ownership and sale of output

- (a) The Customer warrant to PWC that except where PWC has given a consent under clause 32(b) the Customer is the sole owner of the Customer Facilities.
- (b) The Customer must not permit any other person to acquire a proprietary interest in the Customer Facilities without PWC's prior written consent, which consent will not be unreasonably delayed or withheld. Without limiting the conditions PWC may impose as a condition of giving that consent, those conditions may include that a person acquiring an interest in the Customer Facilities executes such documents (in a form satisfactory to PWC) as required to make them party to this Agreement.
- (c) Where the Customer enters into any arrangement under which the Customer permits a person to sell or otherwise deal with the electrical output of the Generation Facilities (including into the Northern Territory Electricity Market), then the Customer must ensure that person enters into a deed with PWC before that arrangement takes effect. The terms of that deed must be satisfactory to PWC and provide that, to the extent permitted by law, that person agrees that PWC have no liability to them if for any reason, including PWC's wrongful act or omission, they are unable to sell or otherwise deal with all or part of the electrical output (or what would, but for the act or omission, have been the available electrical output) of the Generation Facilities (including because of any Constraint on the ability of the Generation Facilities to deliver electricity into the Electricity Network, any damage to the Generation Facilities or any other matter).
- (d) Where a person referred to in clause 32(c) is not party to a deed of the type referred to in that clause, then the Customer must indemnify and keep PWC indemnified and held harmless against all costs, expenses, damages or losses PWC incurs or suffers because of claims by that person against PWC (including due to PWC's wrongful act or omission) related to or in connection with them being unable to sell or otherwise deal with all or part of the electrical output (or what would, but for the act or omission, have been the available electrical output) of the Generation Facilities (including because of any Constraint on the ability of the generator to deliver electricity into the Electricity Network, any damage to the generator or any other matter).

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33. Purpose of PWC reviews

- (a) Any review PWC undertakes of the Customer Facilities or procedures relating to the Customer Facilities or of any other document prepared by the Customer under this Agreement is undertaken for the purposes of managing the risk of any adverse impact of the Customer Facilities and procedures on the Electricity Network.
- (b) Such review, and any comments provided by PWC, is not undertaken for the purpose of assessing whether the Customer Facilities and procedures are appropriate for the Customer's purposes and electricity requirements. The Customer agrees to make its own assessment of these matters and seek advice from a qualified professional. Any information PWC seeks, and comment PWC makes, about the Customer Facilities and procedures are for PWC internal purposes and for the purpose of ensuring the integrity of the Electricity Network and not for the purpose of providing advice to the Customer.

34. Metering

- (a) PWC will own, operate and maintain the metering equipment at each Connection Point in accordance with Electricity Laws.
- (b) All electricity measured at the Exit Point Meter will be deemed to have been transferred by PWC on behalf of the Customer and all electricity measured by the Entry Point Meter will be deemed to have been delivered by the Customer into the Electricity Network.

35. Rebate Schemes

The Customer acknowledges and agrees that PWC is unable to, and does not, represent, warrant or guarantee:

- (a) the Customer's eligibility, or lack of eligibility; or
- (b) the eligibility, or lack of eligibility, of any person who subsequently acquires the Generation Facilities,

for, nor the amount of, any rebates, tariffs or other benefits payable or allowable to the Customer under any Northern Territory or national scheme relating to generators, and that PWC has no responsibility or liability in relation to any such schemes.

36. Incorporation of Code

- (a) Without limiting each party's obligation to comply with all Electricity Laws, each party must comply with the requirements of the Network Technical Code and the System Control Technical Code which relate to or impact the exercise of that party's rights or discharge of its obligations under this Agreement.
- (b) Nothing in this Agreement derogates from any right PWC has under the Network Technical Code, the System Control Technical Code, the NT NER or any other Electricity Law.

(c) To the extent that it:

- (i) the Network Technical Code, the System Control Technical Code, the NT NER or any other Electricity Law; and
- (ii) this Agreement,
- (d) impose an equivalent requirement upon the Customer, then, unless this Agreement expressly provides otherwise, the Customer must comply with the highest standard imposed upon the Customer by the relevant requirements.

37. Termination after Minimum Period of Connection

- (a) If there is a Minimum Period of Connection under this Agreement, either party may terminate this Agreement at any time after the end of the Minimum Period of Connection by giving no less than 12 months' notice to the other party.
- (b) Termination under this clause 37 is without prejudice to accrued rights of either party, but neither party will be liable to the other party with respect to that termination.

38. Termination where no Fixed or Minimum Period of Connection

- (a) If there is no Minimum Period of Connection or Fixed Period of Connection under this Agreement, either party may, subject to clause 38(b), terminate this Agreement at any time by giving no less than 12 months' notice to the other party.
- (b) If Part 2 of this Agreement applies, then a notice under clause 38(b) may not be served earlier than 12 months after the first energisation of a Connection Point.
- (c) Termination under this clause 38 is without prejudice to accrued rights of either party, but neither party will be liable to the other party with respect to that termination.

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39. Payment and Invoicing

39.1 Connection Service Charge

PWC may issue an invoice for the Connection Service Charge at the times parts of the Connection Service Charge become due in accordance with clause 9.

39.2 Costs

Where this Agreement requires the Customer to reimburse PWC's costs then PWC may either issue a separate invoice for those costs or include the amount of the costs in an invoice issued under clause 39.3.

39.3 Monthly Invoices

PWC will, after the end of each month, issue to the Customer an invoice or invoices for any Service Charges due in respect of that month.

39.4 PWC Costs

Where this Agreement requires the Customer to pay or reimburse PWC its costs then, subject to any requirements of Electricity Laws, the cost of PWC employees will be taken to be equal to the time spent by those employees on the relevant matter charged at the Standard Rates.

39.5 Alternative Control Services

- (a) PWC will, from time to time and upon the request of the Customer, provide Alternative Control Services categorised by the Regulator as "Fee-based services", at the applicable reference tariffs set out in the Pricing Schedule and approved by the Regulator.
- (b) PWC may, from time to time and upon request from the Customer, provide Alternative Control Services categorised by the Regulator as "Quoted services" for amounts to be determined by PWC in accordance with any pricing formula or methodology approved by the Regulator or for amounts otherwise agreed with the Customer.
- (c) PWC may require the Customer to pre-pay PWC's estimate of the cost of a Quoted service before PWC commences the provision of that service.

39.6 Payment

- (a) The Customer must pay PWC the amount set out in an invoice within 21 days of the date of issue of that invoice
- (b) If the Customer fails to comply with clause 39.6(a) then, without prejudice to PWC's other rights, the Customer must pay interest on any unpaid amount calculated daily at the Interest Rate from 21 days after the date of issue of the invoice, until payment.

39.7 Disputed Invoices

- (a) If the Customer disputes any amount payable in an invoice then the Customer must pay PWC the undisputed portion and one half of the disputed portion, and, within 21 days after the date of issue of the invoice, give written notice to PWC that it disputes the amount, including full details of its reasons for the dispute.

- (b) If the Customer withholds an amount under clause 39.7(a) and that amount is subsequently found to have been payable then, without prejudice to PWC's other rights, the Customer must pay interest on the withheld amount calculated daily at the Interest Rate from 21 days after the date of issue of the invoice, until payment of the withheld amount.
- (c) Any amount paid by the Customer under clause 39.5 or clause 39.7 but subsequently found not to have been payable must, without prejudice to the Customer's other rights, be refunded by PWC with interest calculated daily at the Interest Rate from the date the Customer paid the amount to the date PWC repays the amount to the Customer.

39.8 Set Off

A party may set-off any amount owing to it under this Agreement against any amount which is payable by that party under this Agreement. Neither party may set-off any amount payable by or owing to it otherwise than under this Agreement.

39.9 Cost Events

If a Service Costs Event occurs which results in an increase or decrease in PWC's costs arising as a result of:

- (a) PWC performing its obligations under this Agreement; or
- (b) PWC's receipt of payments from the Customer under this Agreement,
- (c) then PWC will, subject to Electricity Laws, adjust the Service Charges so as, as applicable, to recoup such additional liability and costs from the Customer or pass through to the Customer the benefit of any reduced liability and costs.

39.10 Charges Direct to Retailer

- (a) If the Customer has a Retailer then PWC may, in accordance with the arrangements agreed between PWC and that Retailer, charge the Retailer certain amounts payable by the Customer under this Agreement.
- (b) PWC will not charge the Customer for an amount which PWC has charged to the Customer's Retailer, but the Customer will be obliged to pay that amount to the Retailer in accordance with the arrangements agreed between the Customer and its Retailer.

40. GST

- (a) Subject to clause 40(b) and clause 40(c), where any supply occurs under or in connection with this Agreement, the party making the supply (Supplier) will be entitled to increase the amount payable for the supply by the amount of any applicable GST.
- (b) Where an amount is payable to the Supplier for a supply under or in connection with this Agreement which is based on the actual or reasonable costs incurred by the Supplier, the amount payable for the supply will be reduced by the amount of any input tax

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credits available to the Supplier (or a representative member on the Supplier's behalf) in respect of such costs before being increased for any applicable GST under clause 40(b).

- (c) Clause 40(a) does not apply to any Connection Service Charge or Service Charge under this Agreement which is expressly described as being expressed on a GST inclusive basis.
- (d) As a condition precedent to any amount on account of GST being due from the recipient to the Supplier in respect of a taxable supply, the Supplier must provide a tax invoice to the recipient in respect of that supply.
- (e) If the amount paid to the Supplier in respect of the GST (whether because of an adjustment or otherwise):
 - (i) is more than the GST on the supply, then the Supplier shall refund the excess to the recipient; or
 - (ii) is less than the GST on the supply, then the recipient shall pay the deficiency to the Supplier.
- (f) All amounts payable under this Agreement are taken to be expressed on a GST exclusive basis unless expressly provided otherwise in this Agreement
- (g) In this clause 40 terms defined in GST Legislation have the meaning given to them in GST Legislation.

41. Insurances

41.1 Public Liability Insurance

- (a) The Customer must keep and maintain a public liability policy with reputable insurers covering liability to third parties for all types of loss or damage ordinarily covered by a public liability policy, in relation to the Customer Facilities, the Customer Works and the Transferred Works, for the amount set out in Schedule 1.
- (b) The insurance required under clause 41.1(a) must be on an occurrence basis and must cover the period from:
 - (i) in the case of the Customer Facilities, the commencement of construction of the Customer Facilities to the expiry or earlier termination of this Agreement;
 - (ii) in the case of the Transferred Works, the commencement of construction of the Transferred Works to the end of all defects liability periods under clause 14.9; and
 - (iii) in the case of the Customer Works, the commencement of construction of those works to the completion of such construction or earlier termination of this Agreement.
- (c) The insurance under clause 41.1(a) must:
 - (i) be in the joint names of the Customer, PWC, and all contractors and consultants engaged in the undertaking of the Customer Works and the Transferred Works; and

(ii) contain:

- (A) a cross-liability clause (providing that claims between insureds are covered and that the contract of insurance acts as if it were a separate policy in respect of each insured party); and
- (B) a waiver of subrogation clause, providing that the insurer waives its rights of subrogation against insured parties.

41.2 Works Insurance

- (a) The Customer must take out and maintain, or procure the relevant contractor to take out and maintain, a contractor's works insurance policy covering:
 - (i) the reinstatement costs of the Customer Works and the Transferred Works (including design costs and unfixed goods and materials to be incorporated into the relevant works) for the period from the commencement of construction of the Customer Works and the Transferred Works until:
 - (A) in the case of the Transferred Works, the date of issue of a Handover Certificate; and
 - (B) in the case of any Customer Works, when those works are completed; and
 - (ii) in the case of the Transferred Works, any repair, replacement or rectification works during the defects liability periods.
- (b) The insurance under clause 41.2(a) must be in the joint names of the contractors engaged by the Customer to carry out the relevant works, the Customer and PWC, for their respective rights and interests.

41.3 Other Insurances

The Customer will keep and maintain all other insurances required either by:

- (a) Good Electricity Industry Practice; or
- (b) Schedule 1.

41.4 Evidence of Insurances

The Customer will upon PWC's request provide PWC with:

- (a) certificates evidencing that the insurance policies required by this clause 41 have been effected and all premiums have been paid; and
- (b) such other reasonable documentation as PWC may require from time to time to confirm that the insurance policies are valid, current and meet the requirements of this clause 41.

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42. Force Majeure

42.1 Effect of force majeure event

If either party is prevented from performing or observing any of its material obligations under this Agreement (other than obligations to pay money) by a Force Majeure Event, its obligations (other than obligations to pay money) will be suspended during the period in which the party is unable to perform those obligations due to the Force Majeure Event.

42.2 Notice obligations

If a party wishes to invoke clause 42.1, it must:

- (a) notify the other party;
- (b) as soon as practicable after providing the above notice, give particulars to the other party of the Force Majeure Event and of the obligations of the affected party under this Agreement which have been, will be or are likely to be, affected by the Force Majeure Event; and
- (c) keep the other party informed, both at reasonable intervals and upon request by the other party, as soon as practicable following the receipt of that request, of:
 - (i) the affected party's estimate of the likely duration of the Force Majeure Event;
 - (ii) the action taken and the action proposed to be taken to mitigate the effect of the Force Majeure Event;
 - (iii) the cessation of that Force Majeure Event or the successful mitigation or minimisation of the effects of that Force Majeure Event; and
 - (iv) any other matter which the other party may reasonably request in connection with the occurrence of the Force Majeure Event.

42.3 Mitigation of effect of Force Majeure Event

The party invoking clause 42.1:

- (a) must use its reasonable endeavours to mitigate the effects of the Force Majeure Event;
- (b) must use its reasonable endeavours to overcome or remove the Force Majeure Event; and
- (c) will not be required against its will to settle a strike, lock-out or other industrial disturbance by acceding to the demands of the disputants.

42.4 Amendment or expiration of Agreement on account of Force Majeure Event

If the Force Majeure Event continues to prevent a party from performing or observing its material obligations under this Agreement for 6 months from the date of its occurrence, either party may upon not less than 10 Business Days' notice either:

- (a) amend Schedule 1 to remove one or more of the affected Connection Point(s) from the operation of this Agreement; or
- (b) terminate the entire Agreement.

42.5 Effect on various dates

No Force Majeure Event will result in an extension to the time periods under clause 4.2(b) or clause 16(a).

43. Licences

43.1 Notification of Suspension etc

Where:

- (a) PWC ceases to hold a licence under section 22 of the ERA, or that licence is surrendered, suspended or cancelled; or
- (a) the Customer (if it is required by the ERA to hold such licence) ceases to hold a licence under the ERA, or that licence is surrendered, suspended or cancelled,

(Licence Event)

then PWC (in the case of clause 43.1(a)) or the Customer (in the case of clause 43.1(b)) must immediately notify the other party, setting out the nature of the Licence Event, the action being taken to rectify the situation, and the likely duration of the Licence Event.

43.2 Parties to Meet

Within 3 Business Days of receipt of the notice given under clause 43.1, or such other time as may be agreed between the parties, senior executives of the parties must meet to try to agree what action, if any, should be taken as a result of the Licence Event.

43.3 Termination

- (a) Where a Licence Event in respect of PWC continues for 10 Business Days, the Customer may, by 5 Business Days' notice to PWC, terminate this Agreement.
- (b) Where a Licence Event in respect of the Customer continues for 10 Business Days PWC may disconnect any Connection Point the use of which by the Customer would breach the ERA. Such Connection Point will remain disconnected until:
 - (i) the Customer decommissions the Customer Facilities for which a licence is required to be held; or
 - (ii) the Customer obtains a licence or exemption enabling it to lawfully own and operate those Customer Facilities.

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44. Termination for Default

- (a) PWC may terminate this Agreement by notice to the Customer where:
 - (i) the Customer fails to make a payment under this Agreement by the due date (other than a payment the Customer is expressly permitted to withhold by a provision of this Agreement) and fails to make such payment within 7 days' notice from PWC requiring such payment;
 - (ii) the Customer breaches clause 14.10 or clause 17 and does not remedy that breach within 7 days' of notice from PWC;
 - (iii) the Customer fails to cure any other default under this Agreement within 60 days of receiving a notice of that default from PWC; or
 - (iv) an Insolvency Event occurs in relation to the Customer.
- (b) The Customer may terminate this Agreement by notice to PWC if PWC fails to cure any default under this Agreement within 60 days of receiving a notice of default from the Customer.
- (c) Termination under this clause 44 is without prejudice to accrued rights of the parties or any legal or equitable rights that a party may otherwise have with respect to that termination.
- (d) Where there is more than one Connection Point under this Agreement, termination under this clause 44 may be with respect to one or more of those Connection Points.

45. Disconnecting and Dismantling

- (a) If this Agreement is terminated or expires, PWC will be entitled to disconnect, dismantle, decommission and remove any of its Equipment.
- (b) To the extent permitted by Electricity Laws, the Customer must reimburse PWC its costs of dismantling, decommissioning or removing the Equipment and making good the areas of land upon which the Equipment was located.
- (c) Clause 45(b) does not apply if this Agreement was terminated by the Customer under clause 43.3(a) or clause 44(b).
- (d) If this Agreement is terminated or expires the Customer must comply with clause 31(f).
- (e) If this Agreement is terminated or expires with respect to an Entry Point or Exit Point the Customer must comply with clause 31(f) in respect of any Generation Facilities capable of delivering electricity to that Entry Point or Customer Facilities capable of taking delivery of electricity at that Exit Point.

46. Customer Warranties

The Customer represents and warrants to PWC that:

- (a) the Customer is a corporation validly existing under the laws of the place of its incorporation;
- (b) it will at all times hold all Approvals required for it to own and operate the Customer Facilities;
- (c) all information it has provided to PWC in any application for a connection is true and correct in all material respects;
- (d) it has the power to enter into and perform its obligations under this Agreement;
- (e) it has taken all necessary corporate action to authorise the entry into and performance of this Agreement;
- (f) the execution and performance by it of this Agreement does not and will not breach a provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree of a Government Agency binding on it;
 - (ii) its constitution; or
 - (iii) any other document or agreement to which it is a party; and
- (g) it has made and entered into all necessary arrangements and agreements to deliver electricity at each Entry Point.

47. Liability

47.1 Effect of Legislation

Nothing in this Agreement is to be read as excluding, restricting or modifying the application of any legislation which by Law cannot be excluded, restricted or modified.

47.2 Exclusion of Warranties

All warranties in relation to the supply of electricity or other services by PWC which may otherwise be implied by use, statute or otherwise are, to the maximum extent permitted by Law, excluded including any warranties of fitness for purpose, merchantable quality or otherwise relating to the quality or continuity of any service or the supply of electricity.

47.3 Australian Consumer Law Guarantees

- (a) Pursuant to section 64A of the Australian Consumer Law this clause 47.3(a) and clause 47.3(b) apply in respect of the goods or services supplied under this Agreement which are not of a kind ordinarily acquired for personal, domestic or household use or consumption, but this clause 47.3(a) and clause 47.3(b) will not apply if a party establishes that reliance on them would not be fair and reasonable.

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This clause 47.3(a) and clause 47.3(b) prevail over any inconsistent provisions in this Agreement.

- (b) Liability of PWC for failure to comply with a guarantee under Division 1 of Part 3-2 of the Australian Consumer Law (other than a guarantee under section 51, 52 or 53) is limited to:
- (i) in the case of goods, to any one of the following as determined by PWC:
- (A) the replacement of the goods or the supply of equivalent goods;
 - (B) the repair of the goods;
 - (C) the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - (D) the payment of the cost of having the goods repaired;
- (ii) in the case of services, to any one of the following as determined by PWC:
- (A) the supplying of the services again;
 - (B) the payment of the cost of having the services supplied again.

47.4 Third Party Claims

The Customer must indemnify and keep PWC indemnified against any third party claims against PWC which arise due to the Customer's breach of this Agreement or negligent act or omission in connection with this Agreement.

47.5 Network Damage

The Customer must reimburse PWC any costs and expenses incurred by PWC in rectifying damage to the Electricity Network (including the Transferred Works) caused by the Customer's breach of this Agreement or negligent act or omission in connection with this Agreement (including without limitation due to any failure of Transferred Works to comply with the requirements of this Agreement).

47.6 PWC Liability

- (a) PWC is not liable to the Customer for any failure to supply electricity to the Customer or for any inability of the Customer to deliver electricity into the Electricity Network unless such failure arises due to PWC's negligence or bad faith.
- (b) In no circumstances (whether for breach of contract, in tort (including in negligence), in equity, under statute or on any other basis whatsoever) is PWC liable to the Customer for any Consequential Loss.
- (c) PWC's aggregate liability to the Customer for all acts, omissions or events under this Agreement in a calendar year (whether for breach of contract, in tort (including in negligence), in equity, under statute or on any other basis whatsoever) is capped at the amount specified in Schedule 1 as the PWC Liability Cap.

- (d) PWC has no liability under this Agreement (whether for breach of contract, in tort (including in negligence), in equity, under statute or on any other basis whatsoever) for any act or omission performed by PWC in its capacity as Power System Controller or performed by PWC in connection with PWC providing advice, services or assistance to or acting in accordance with the directions of the Power System Controller.
- (e) PWC has no liability under this Agreement (whether for breach of contract, in tort (including in negligence), in equity, under statute or on any other basis whatsoever) for any act or omission performed by PWC in its capacity as Market Operator or performed by PWC in connection with PWC providing advice, services or assistance to or acting in accordance with the directions of the Market Operator.

47.7 Customer Liability

- (a) Subject to clause 47.7(b) the Customer is not liable to PWC under this Agreement for any loss of profits, loss of goodwill or credit, loss of business reputation, loss of interest, damage to credit rating or loss or denial of opportunity.
- (b) Clause 47.7(a) does not limit the Customer's liability:
- (i) for any Connection Service Charge or Service Charges, GST or interest due under this Agreement;
 - (ii) to reimburse or pay PWC any costs, where the Customer is required to pay or reimburse those costs pursuant to an express provision of this Agreement;
 - (iii) for any liability of PWC to third parties for losses of the nature described in clause 47.7(a);
 - (iv) for any deliberate breach of this Agreement, gross negligence or wilful misconduct;
 - (v) for any breach of Laws;
 - (vi) to the extent the Customer has insurance in place which provides indemnity for such amounts (or would have had such insurance in place or would have received such indemnity had the Customer complied with its insurance obligations under this Agreement); or
 - (vii) for any loss of profits suffered by PWC under this Agreement due to early termination of this Agreement due to the Customer's breach or repudiation of this Agreement.

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48. Changes in law

- (a) If, due to a change in Electricity Laws:
- (i) this Agreement ceases to comply with the requirements of those laws; or
 - (ii) this Agreement ceases to be compatible with the current regulatory regime for electricity applicable in the Northern Territory such that it is not possible or practicable for the parties to perform their obligations or exercise their rights in the manner envisaged as at the time of execution of this Agreement; or
 - (iii) there is a substantial change to the commercial position of the parties,

then PWC may propose to the Customer amendments to this Agreement to (as applicable) ensure this Agreement complies with Electricity Laws, ensure this Agreement is compatible with the regulatory environment or restore the parties, as closely as possible, to their original commercial position.

- (b) Examples of changes in Electricity Laws to which clause 48(a) applies include changes in the way PWC charges to electricity consumers and/or generators are determined, structured or collected, changes to the operation of the Northern Territory Electricity Market and changes to the relationship between network service providers, retailers, generators and customers.
- (c) The Customer must agree to any changes proposed by PWC under clause 48(a) unless the Customer demonstrates that such changes are unreasonable (including because the changes extend beyond those necessary to reflect the relevant change in Electricity Laws).
- (d) The Customer must notify PWC whether the Customer agrees to the changes proposed by PWC within 15 Business Days of receipt of those changes. If the Customer does not agree to the changes proposed by PWC its notice must outline in detail the reasons why Customer does not agree to those changes. If the Customer fails to provide notice within the 15 Business Day period complying with this clause 43(d) then the Customer will be deemed to have agreed to the changes.
- (e) If the Customer agrees to the changes proposed by PWC, then upon PWC receiving notification from Customer of such agreement, this Agreement is automatically amended by those changes.
- (f) If the Customer does not agree to the changes proposed by PWC, PWC may:
 - (i) submit a revised version of those changes to the Customer (in which case the procedures in this clause 48 will apply to the review of those changes); or
 - (ii) refer to an independent expert in accordance with the Resolution Institute Expert Determination Rules, the determination of whether the changes proposed by PWC are reasonable.

- (g) If an independent expert determines the changes proposed by PWC are reasonable, then this Agreement is automatically amended by those changes. If the independent expert determines the changes are not reasonable, then PWC may submit a revised version of those changes to Customer, (having regard to any comments provided by the independent expert) in which case the procedures in this clause 48 will apply to the review of those changes.

49. Assignment and novation

49.1 Dealings with this Agreement by the Customer

The Customer must not:

- (a) assign, transfer, novate or deal with any of its rights or obligations under this Agreement; or
- (b) grant any mortgage, pledge, charge or otherwise encumber its rights to and interest in this Agreement,

unless the Customer has PWC's prior written consent, which consent will not be unreasonably withheld or delayed or given on unreasonable conditions.

49.2 Change in control

- (a) In this clause 49.2, a "Change in Control" occurs in respect of a person where a change occurs in the persons which directly or indirectly:
 - (i) control the composition of the board of that person; or
 - (ii) are directly or indirectly in a position to cast, or control the casting of, more than one-half of the maximum number of votes that may be cast at a general meeting of that person; or
 - (iii) hold more than one-half of the issued share capital of that person (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
 - (iv) where that person is a trustee of a unit trust, hold more than one half of the beneficial ownership of the units in the unit trust.
- (b) The Customer must ensure that no Change in Control of the Customer occurs without PWC's prior written consent, which PWC will not unreasonably withhold, delay or give on unreasonable conditions.
- (c) Clause 49.2(b) does not apply if:
 - (i) the Customer is listed on the Australia Securities Exchange or another recognised securities exchange; or
 - (ii) the event which causes the Change in Control of the Customer is a Change in Control of a Related Body Corporate (as defined in the Corporations Act) of the Customer which Related Body Corporate is listed on the Australian Securities Exchange or another recognised securities exchange.

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49.3 Costs

The Customer must pay PWC's costs of considering whether to give consent under clauses 49.1 to 49.2 and of preparing and negotiating any documentation executed to give effect to the transactions referred to in those clauses. Such costs include the time of PWC employees at the Standard Rates and external legal costs. The Customer must pay any stamp duty and other taxes levied upon such documents and the transactions they evidence.

49.4 Dealings with this Contract by PWC

- (a) PWC may:
- (i) without the Customer's consent, assign, transfer or novate PWC's rights and obligations under this Agreement to (or otherwise deal with those rights and obligation in favour of) any person to whom ownership (including an ownership interest as lessee) of the Electricity Network servicing the Customer has been transferred or which person is authorised by law to operate that part of the Electricity Network;
 - (ii) without the Customer's consent, mortgage, pledge, charge or otherwise encumber PWC's rights to and interest in this Agreement; and
 - (iii) otherwise assign, transfer, novate or deal with PWC's rights and obligations under the Agreement with the Customer's prior written consent, which consent will not be unreasonably withheld or delayed or given on unreasonable conditions.
- (b) PWC may assign, transfer or novate PWC rights and obligations under clause 49.4(a) by notice to the Customer (which notice may be given personally to the Customer or may be given by publication on PWC's website or by publication in a newspaper circulating generally within the city of Darwin).
- (c) The Customer must execute such documentation as reasonably required by PWC to evidence or give effect to any assignment, transfer, novation or other dealing which PWC is entitled to make under clause 49.4(a). PWC must pay any stamp duty and other taxes levied upon such documents and the transactions they evidence.

50. Dispute Resolution

- (a) If a dispute arises between the parties, it will be resolved in accordance with any applicable Laws.
- (b) If no Laws regulate the resolution of the dispute then the parties will negotiate in good faith to resolve the dispute. If the dispute is not resolved by such good faith negotiations within 10 Business Days of being raised it will be referred to:
- (i) if the dispute relates to an invoice issued under this Agreement, expert determination in accordance with the Expert Determination Rules of the Resolution Institute; and

(ii) otherwise mediation in accordance with the Rules for Mediation of the Resolution Institute.

- (c) Nothing in this clause 50 prevents a party seeking injunctive or declaratory relief from a court or exercising any right under this Agreement.
- (d) This clause 50 does not apply to disputes under clause 48.

51. Confidentiality

51.1 This document is confidential

Subject to clause 51.2, each party must keep confidential:

- (a) the terms of this Agreement;
- (b) all negotiations between it and the other party in connection with, and all information given to it under, this Agreement; and
- (c) all information in connection with this Agreement of the kind mentioned in section 275(1) of the PPSA.

51.2 Exceptions

- (a) Despite clause 51.1, Confidential Information may be disclosed by a party receiving that information in the following circumstances:
- (i) to its employees, its professional advisers or its financiers who require that information for the purpose of carrying out the functions assigned to them by the party;
 - (ii) to its insurers;
 - (iii) with the consent of the party who provided the information, which consent may not be unreasonably withheld;
 - (iv) where the information was already known to it at the time it received it in the manner contemplated by clause 51.1;
 - (v) the information is known publicly other than as a consequence of a breach of clause 51.1 by that party;
 - (vi) to a bona fide prospective purchaser of:
 - (A) its share capital or of any relevant part of its business undertaking; or
 - (B) the share capital of a holding company of that party;
 - (vii) when required by Law (other than section 275(1) of the PPSA) or by the requirements of any stock exchange on which the shares of the party or any of its Related Bodies Corporate are listed;
 - (viii) in connection with the refinancing of any debt of that party or of any holding company of that party;
 - (ix) to any Related Body Corporate;
 - (x) in the case of disclosure by PWC, to any Minister of the Government of the Northern Territory or to any Northern Territory Government Agency;

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- (xi) to the Regulator or the Utilities Commission;
 - (xii) as necessary to enable a party to claim force majeure under another contract or to enable a party to deal with any claim that it is in breach of another contract; or
 - (xiii) as required to discharge a party's obligations under this Agreement or to exercise its rights under this Agreement.
- (b) Except in the case of clause 51.2(a)(iii), clause 51.2(a)(iv), clause 51.2(a)(v) and clause 51.2(a)(vi), a party disclosing Confidential Information under clause 51.2 must use its reasonable endeavours to ensure that the persons to whom it discloses that information undertake to keep the information confidential.

51.3 Announcements

Except for securities exchange announcements required by Law or securities exchange rules, a party must not make any public announcement or issue any media release relating to this Agreement, without the prior written approval of the other party. The parties shall, where appropriate, endeavour to issue joint public announcements and media releases in relation to this Agreement.

52. Clause 5.3.7(g) Rules Requirements

- (a) The Customer will co-operate with PWC to give any notices required to be given under clause 5.3.7(g) of the NT NER and provide all information PWC requires to ensure such a notice is given.
- (b) The Customer agree that PWC may notify NTESMO (as defined in the NT NER) if this Agreement expires or is terminated.

53. Miscellaneous

53.1 PWC rights and powers at law

Nothing in this Agreement limits or restricts PWC exercising any powers or rights which PWC has pursuant to Law (including without limitation rights to interrupt or curtail supply of electricity, access rights and rights of entry and to take action to address emergencies).

53.2 Power System Controller and Market Operator

- (a) Without limiting clause 53.1:
 - (i) nothing in this Agreement limits PWC's rights and powers in its capacity as Power System Controller;
 - (ii) nothing in this Agreement limits PWC's rights and powers in its capacity as Market Operator.
- (b) The parties acknowledge that as at the date of this Agreement PWC is the Power System Controller. Except for the purposes of clause 47.6(d), clause 53.1 and this clause 53.2:
 - (i) references to PWC in a clause of this Agreement as to PWC in its capacity as operator of the Network and references to the Power System Controller are to

PWC when acting as Power System Controller; and

- (ii) PWC only enters into this Agreement in its capacity as operator of the Network.
- (c) The parties acknowledge that as at the date of this Agreement PWC is the Market Operator. Except for the purposes of clause 47.6(d), clause 53.1 and this clause 53.2:
 - (i) references to PWC in a clause of this Agreement as to PWC in its capacity as operator of the Network and references to the Market Operator are to PWC when acting as Market Operator;
 - (ii) PWC only enters into this Agreement in its capacity as operator of the Network.

53.3 Interaction with applicable law

Where a provision of this Agreement is inconsistent with the Law, then the provision of this Agreement prevails but only to the extent permitted by that Law. Otherwise the Law prevails to the extent of the inconsistency.

53.4 Exercise of PWC rights

Unless this Agreement expressly requires otherwise and subject to Law:

- (a) PWC may give or withhold any consent or approval, or exercise any other right, power, authority, discretion or remedy, under or in connection with this Agreement in PWC's absolute discretion; and
- (b) where PWC has the right to approve or consent to a matter or thing under this Agreement, PWC may impose conditions on the approval or consent.

53.5 Waiver

A provision of this Agreement may only be waived by PWC and the Customer by an instrument in writing signed by the authorised officer of each party.

53.6 Entire Agreement

- (a) This Agreement constitutes the full and complete understanding between the parties with respect to the subject matter of this Agreement. There is no other oral understanding, agreement, warranty or representation whether express or implied in any way extending, defining or otherwise relating to the provisions of this Agreement or binding on the parties with respect to any of the matters to which this Agreement relates.
- (b) Each of the parties covenants and irrevocably acknowledges that it has not been induced to enter into this Agreement by any statement, warranty, representation, understanding, act, omission, fact, matter, thing or conduct by or on behalf of any person including the other party, other than as expressly recorded in this Agreement.
- (c) The provisions of clause 53.6(a) and clause 53.6(b) will operate and remain in full force and effect, except in the case of fraud by a party to this Agreement.

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53.7 Amendment of Agreement

Any amendments to this Agreement must be in writing and signed by both parties in order to be effective.

53.8 Governing Law and Jurisdiction

This Agreement is governed by the law in force in the Northern Territory, and the parties submit to the exclusive jurisdiction of the courts of, or exercising jurisdiction in, the Northern Territory and warrant that they will not take any objection to the jurisdiction of those Courts on grounds of convenience.

53.9 Operational Communications

- (a) Any operational communications given by or on behalf of a party may be by telephone or other instantaneous means of communication.
- (b) Operational communications are to be recorded in a manner satisfactory to both parties. The parties will ensure that logs are kept in which persons giving and receiving operational communications record brief details of their substance and timing.

53.10 Notices

Each communication (including each notice, consent, approval, request and demand) under or in connection with this Agreement:

- (a) must be in writing;
- (b) must be addressed as set out in Schedule 1;
- (c) must be signed by the Party making it or (on that Party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (d) must be delivered by email in accordance with clause 53.11, by hand or posted by prepaid priority post to the address, or sent by fax to the number, of the addressee; and
- (e) is taken to be received by the addressee:
 - (i) (in the case of prepaid post sent to an address in the same country) on the third Business Day after the date of posting;
 - (ii) (in the case of prepaid post sent to an address in another country) on the tenth Business Day after the date of posting by airmail;
 - (iii) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
 - (iv) (in the case of delivery by hand) on delivery,

but if the communication is taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day ("business day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

53.11 Notices sent by email

- (a) Any communications may be sent by email:
 - (i) to the relevant email address set out in Schedule 1 or the email address last notified by the intended recipient to the sender; and
 - (ii) where the sender keeps an electronic or printed copy of the communication.
- (b) A communication sent under clause 53.11(a) will be taken to be duly received:
 - (i) on return of a receipt produced by the system to which the email was sent which indicates that the email was sent to the email address of the recipient; or
 - (ii) where no return receipt is produced by the recipient's email system and the sender has not otherwise received a notification that the email was unable to be delivered, by the end of the day the email was sent if prior to 5pm on a Business Day and otherwise the next Business Day.

53.12 Further assurance

Each party agrees, at its own expense, on the request of the other party, to do everything reasonably necessary to give effect to this Agreement and the transactions contemplated by it, including, but not limited to, the execution of further documents.

53.13 Merger

The warranties, undertakings and indemnities in this Agreement do not merge on termination of this Agreement.

53.14 Remedies

The rights, powers and remedies provided in this Agreement are cumulative with, and not exclusive of, the rights, powers or remedies provided by Law independently of this Agreement.

53.15 Costs

Each party is responsible for its own costs in relation to the negotiation, preparation, execution and performance of this Agreement, except to the extent this Agreement provides otherwise.

53.16 Duty

Except where expressly provided otherwise in this Agreement, the Customer must pay any duty (including, to the extent permitted by law, any fine or penalty) payable in respect of this Agreement, any document executed under it or any dutiable transaction evidenced, effected or required in connection with it. If a party other than the Customer pays any duty payable by the Customer under this clause 53.16, the Customer must pay that amount to the paying party on demand.

53.17 Indemnities

Unless this Agreement provides otherwise:

Part 4 General Provisions

- (a) each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Agreement;
- (b) it is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this Agreement; and
- (c) the making of a claim by a party under an indemnity contained in this Agreement in respect of a particular event does not preclude that party from subsequently making further claims under that indemnity in respect of the same event.

53.18 Severance

If a provision of this Agreement would, but for this clause 53.18, be void, unenforceable or illegal in a jurisdiction:

- (a) the provision is read down to the extent necessary to avoid that result; and
- (a) if the provision cannot be read down, to that extent, it is severed in that jurisdiction,

without affecting the validity and enforceability of that provision in any other jurisdiction or any other provisions of this Agreement. This clause 53.18 has no effect if its operation alters the basic nature of this Agreement or is contrary to public policy.

53.19 Accrued rights

Termination or expiry of this Agreement for any reason does not affect the accrued rights of the parties under it.

53.20 Clauses surviving termination

Clauses 16, 31(f), 39, 40, 45, 47, 50, 51, 52(b) and 53 survive termination or expiry of this Agreement as do any other clauses that are by their nature intended to survive the termination or expiry of this Agreement.

53.21 Counterparts

This Agreement may be executed in counterparts which together constitute one instrument but is not effective until each party has executed at least one counterpart and the counterparts have been exchanged. Each party consents to the exchange of counterparts by facsimile, email or other electronic means.

53.22 Authority of signatory

Each person, who executes this Agreement on behalf of a party under a power of attorney or other authority, declares and warrants that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that authority.

Schedule 1 Contract Particulars

Table 1 Services and Term

Is PWC providing a Connection Work Service	(Yes/No)
Is PWC providing a Supply Service	(Yes/No)
Supply Contract (if not this agreement)	
Fixed Period of Connection	[Insert or if not applicable state 'not applicable']
Minimum Period of Connection	[Insert or if not applicable state 'not applicable']

Table 2 Conditions

Condition	Party Responsible for Satisfying	Party for whose benefit Condition is included	Date for Satisfaction

Table 3 Entry Point and Exit Points

Point	Location	CMD or DSOC	Maximum Capacity

Schedule 1 Contract Particulars

Table 4 Required Land Access Rights

Right	Description

Table 5 Other Particulars

Site	Description
Date for Change in Law and Change in Imposts	
Additional Costs Events (see paragraph (h) definition)	
Other Conditions to PWC Works (see clause 4.2(a)(vi))	
Period for satisfying Conditions to PWC Works (see clause 4.2(b))	
Approvals to be obtained by PWC (see clause 5(a))	
Time Period for Completion of PWC Works (see clause 6(a))	
Quantum of Transferred Works Security (see clause 14.10(a))	
Deadline for Completion Customer Works and Transferred Works (see clause 16(a)(ii))	
Date for Commencement Supply Service (see clause 18(a)) [Note only specify a date if different to date of energisation Note date may differ between Exit Points and Entry Points]	
PWC Liability Cap (see clause 47.6(c))	

Schedule 1 Contract Particulars

Table 6 Insurance Requirements

Type of Insurance	Limits of Indemnity	Other Requirements

Table 7 PWC Notice Details

Delivery Address	
Postal Address	
Email	
Facsimile	

Table 8 Customer Notice Details

Delivery Address	
Postal Address	
Email	
Facsimile	

Schedule 2 Charges

Table 1 Outline of Charges

Charge	
Connection Service Charge	
[List Service Charges]	

Table 2 Breakdown of Connection Service Charge

For Chapter 5A Connections
(See clause 5A.E.2 NT NER)

Connection Charges	
Costs of network extension	
Upstream Augmentation	
Other Costs	

For Chapter 5 Connections
(See clause 5.3.6(b2) NT NER)

Connection Service Charges	
Costs of network extension	
Upstream Augmentation	
Metering	
Interface Equipment	
Costs of Remote Control Equipment and Remote Monitoring Equipment (see clauses 5.3.5(g) NT NER and 5.3A.10(e))	
Other Costs	

Schedule 2 Charges

Dates for Payment of Connection Service Charge:

Initial Customer Payment Amount:

Costs of Approvals and Land Access Rights assumed in calculating the Connection Service Charge

Clause 6.7.1(6) Adjustments

[Note will only become relevant once services are classified as negotiated distribution services in the Northern Territory

Include any relevant provisions required to give effect to clause 6.7.1(6) of the NT NER – the price for a negotiated distributed service should be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person, in which case the adjustment should reflect the extent to which the costs of that asset are being recovered through charges to that other person]

Revenue Security Requirements

Schedule 3 Customer Works and Specifications

Description of Customer Works

Preliminary Customer Works

Customer Specifications

[Without limiting what will be included in this Schedule, the following will be included as relevant to the Customer Works:

1. Protection settings
2. HV Single line diagrams
3. HV Plant/network layout
4. All HV testing certificates]

Documents which must be provided to PWC

Schedule 4 Generation Facilities

Schedule 5 PWC Works

[Notes - including description connection point, connection assets, premises connection assets and other works (except to the extent being built as Transferred Works) and any required network extension or augmentation]

Schedule 6 Transferred Works

Schedule 7 Generator Performance Standards

Schedule 8 Network Technical Code – clause 3.2.1/3.3.3 requirements

Schedule 9 Derogations

Schedule 10 Technical Data and Information to be provided by Customer

[Notes include amongst other details any required DER generation information
(for distribution connections)]

Schedule 11 Access Rights

A party (**owning party**) must provide access to the other party (accessing party) to the premises and facilities of the owning party for any of the purposes set out in clause 22 and at all times during the normal business hours of the owning party on not less than 24 hours prior notice.

PWC Metering Access

The Customer must ensure PWC has 24 hour, unfettered, all weather access to the Entry Point Meter and the Exit Point Meter.

Emergency Access

In an Emergency, a party may enter the premises of the other party at any time and without notice in order to take such action (as is consistent with Good Electricity Industry Practice) that is reasonably necessary to deal with the Emergency.

Site Procedures

The accessing party must comply with all reasonable site procedures communicated to the accessing party by the owning party.

Occupational Health and Safety

The accessing party must ensure that it complies with all occupational health and safety laws, and any reasonable directions issued by the owning party from time to time concerning occupational health and safety issues.

The accessing party must immediately notify the owning party if an accident involving its personnel occurs on the owning party's premises or in relation to any of the owning party's Equipment.

Environment

The accessing party must ensure that it complies with all environmental laws, and any reasonable directions issued by the owning party from time to time concerning environmental issues.

A party and its personnel, when exercising a right of access, must take all reasonable precautions to prevent pollution, damage or injury to air, soil, water, animal or plant life and property.

Each party must immediately notify the other party of the existence of any environmental hazard or the occurrence of any environmental incident which has or may potentially impact upon the other party.

No Proprietary Rights

The rights granted to the accessing party under this Agreement are contractual only and will not create or vest in the accessing party any estate, interest or right of a proprietary nature in the property of the owning party.

Any equipment belonging to the accessing party which is situated on the owning party's premises will remain the property of the accessing party.

Schedule 12 Third Party DCA Provisions

1. Application

The provisions of this Schedule 12 apply if the Customer will connect to the Electricity Network via Dedicated Connection Assets owned by a person other than PWC.

2. Definitions

In this Schedule 12, unless the context requires otherwise:

- (a) Dedicated Connection Assets has the meaning given to that term in the NT NER.
- (b) Third Party DCA Assets means the dedicated connection assets to be constructed and owned by the Third Party DCA Provider which assets will connect to the Electricity Network and to which assets the Customer Facilities will connect.
- (c) Third Party DCA Provider means the person who will own the Third Party DCA Assets.
- (d) Third Party DCA Connection Agreement means the connection agreement between the Third Party DCA Provider and PWC setting out the terms upon which the Third Party DCA Assets will connect to the Electricity Network.

3. Additional Concepts

- (a) The Entry Point for the purposes of this Agreement will be the point where the Customer Facilities connect to the Third Party DCA Assets as specified in Schedule 1.
- (b) The Exit Point for the purposes of this Agreement will be the point where the Customer Facilities connect to the Third Party DCA Assets as specified in Schedule 1.
- (c) The definition of Costs Event will also include any failure by the Third Party DCA Provider to comply with its obligations under the Third Party DCA Connection Agreement.
- (d) For the purposes of clause 4.2(a) an additional condition to PWC commencing the PWC Works is the satisfaction of any preconditions under the Third Party DCA Connection Agreement to PWC commencing the undertaking of any works under that agreement.
- (e) For the purposes of clause 6(b) where there is a Third Party DCA Connection Agreement events which delay the PWC Works include:
 - (i) any failure by the Third Party DCA Provider to comply with its obligations under the Third Party DCA Connection Agreement; and

- (ii) any delay in completing any testing, inspection, document approval or commissioning programs under the Third Party DCA Connection Agreement, including delays caused because tests required to be undertaken by the Third Party DCA Provider have to be repeated and documents have to be resubmitted by the Third Party DCA Provider

- (f) For the purposes of clause 16(a)(i) references to the Customer's acts or omissions include acts or omissions of the Third Party DCA Provider.
- (g) PWC has no liability to the Customer where PWC is unable to discharge its obligations under this Agreement due a failure by the Third Party DCA Provider to comply with the Third Party DCA Connection Agreement.
- (h) The Customer acknowledges that PWC may Interrupt the provision of services to the Third Party DCA Provider or disconnect the Third Party DCA in accordance with the terms of the Third Party DCA Connection Agreement or Electricity Laws and that any such action will cause an Interruption in the provision of services under this Agreement. PWC has no liability to the Customer for such Interruption.
- (i) If the Third Party DCA Connection Agreement is terminated (other than due to PWC's breach of that Agreement) then PWC may terminate this Agreement. If the reason for the termination of the Third Party DCA Connection Agreement was breach by the Third Party DCA Provider then this Agreement will be treated as having been terminated by PWC under clause 44 for the Customer's breach of contract.
- (j) Clause 16(c) and clause 45 apply if this Agreement is terminated under paragraph (i) above unless the Third Party DCA Connection Agreement was terminated due to PWC's breach of that agreement.

Schedule 13 Third Party IUSA Provisions

1. Application

The provisions in this Schedule 13 apply if the Customer has, as part of its Connection Application, engaged a third party to construct contestable IUSA components to which the Customer's Facilities will direct or indirectly connect.

2. Definitions

In this Schedule 13, unless the context requires otherwise:

- (a) Contestable IUSA Components has the meaning given to that term in the NT NER.
- (b) Construction Works Interface Agreement means the agreement between PWC and the IUSA Provider setting out the procedures for co-ordinating the construction of the Third Party IUSA Assets and the PWC Works.
- (c) IUSA Provider means the person engaged by the Customer to construct the Third Party IUSA Assets.
- (d) Network Operating Agreement means a network operating agreement (as that term is defined in the NT NER) between PWC and the IUSA Provider.
- (e) Third Party IUSA Assets means Contestable IUSA Components to be constructed by a third party engaged by the Customer.
- (g) For the purposes of clause 4.2(a) an additional condition to PWC commencing the PWC Works is the satisfaction of any preconditions under the Construction Works Interface Agreement to PWC commencing the undertaking of any works under that agreement.
- (h) For the purposes of clause 6(b) where there is an Construction Works Interface Agreement, events which delay the PWC Works include:
 - (i) any failure by the IUSA Provider to comply with its obligations under the Construction Works Interface Agreement; and
 - (ii) any delay in completing any testing, inspection, document approval or commissioning programs under the Construction Works Interface Agreement, including delays caused because tests required to be undertaken by the IUSA Provider have to be repeated and documents have to be resubmitted by the IUSA Provider

3. Additional Concepts

- (a) The functional specification for the Third Party IUSA Assets is set out in Schedule 14.
- (b) The Customer must ensure the IUSA Provider complies with all of its obligations under the Construction Works Interface Agreement and any Network Operating Agreement. This is a principal obligation of the Customer and not a guarantee.
- (c) Without limiting paragraph (b) above, if the IUSA Provider fails to pay any amount due to PWC under the Construction Works Interface Agreement or any Network Operating Agreement by the due date, the Customer must within 7 days of notice from PWC pay such amount to PWC.
- (d) Subject to the Customer complying with paragraph (b) above and paragraph (c) above, PWC will co-operate to facilitate construction of the Third Party IUSA Assets by the IUSA Provider in accordance with the Construction Works Interface Agreement.
- (e) The definition of Costs Event will also include any failure by the IUSA provider to comply with its obligations under the Construction Works Interface Agreement.
- (f) The Land Access Rights will include the easements, leases and other land access rights which PWC requires to be obtained for the ongoing location and maintenance of and access to the Third Party IUSA Assets as specified in Schedule 1. Clause 5(c) to 5(e) will apply to those additional Land Access Rights.
- (i) If under the Construction Works Interface Agreement PWC repeats any review of a document, inspection of the Third Party IUSA Assets, test (or attendance at a test) or commissioning procedure then, except where caused by PWC's breach of the Construction Works Interface Agreement, the Customer must reimburse PWC its costs of repeating the relevant review or action.
- (j) If the Third Party IUSA Assets are to be owned by PWC upon completion of their construction then for the purposes of clause 15, PWC will not be obliged to establish or complete or energise a Connection or upgraded Connection until PWC has acquired good title to the Third Party IUSA Assets free from any Encumbrances and any easements and other access rights in respect of those assets (whether required to be granted under this Agreement or under the Construction Works Interface Agreement) have been granted to PWC.
- (k) The Customer must reimburse PWC for any taxation liability (including liability for income tax equivalent payments) incurred by PWC because of transfer of ownership of the Third Party IUSA Assets. If specified in Schedule 2, such reimbursement must be effected by payments made at the times specified in Schedule 2.
- (l) If the Third Party IUSA Assets are not to be owned by PWC (and consequently a Network Operating Agreement is to be entered into) PWC will not be obliged to establish or complete or energise a Connection or upgraded Connection until PWC has been given all necessary access rights and access to keys, passwords, manuals, drawings and such other materials as required by PWC to enable PWC to access and control the Third Party IUSA Assets.
- (m) If the Construction Works Interface Agreement is terminated (other than due to PWC's breach of that Agreement) then PWC may terminate this Agreement. If the reason for the termination of the

Schedule 13 Third Party IUSA Provisions

Construction Works Interface Agreement was breach by the IUSA Provider then this Agreement will be treated as having been terminated by PWC for the Customer's breach of contract.

- (n) If:
 - (i) the Network Operating Agreement is terminated (other than due to PWC's breach of that Agreement); and
 - (ii) upon such termination PWC, PWC does not acquire good title to the Third Party IUSA Assets free from any Encumbrances and such easements and other access rights as PWC requires to access, operate and maintain those assets,
- (o) then PWC may terminate this Agreement. If the reason for the termination of the Network Operating Agreement was breach by the IUSA Provider then this Agreement will be treated as having been terminated by PWC for the Customer's breach of contract.
- (p) For the purposes of clause 16(a)(i) references to the Customer's acts or omissions include acts or omissions of the IUSA Provider.
- (q) Clause 16(c) and clause 45 apply if this Agreement is terminated under paragraph (l) above or paragraph (m) above unless the Construction Works Interface Agreement or Network Operating Agreement was terminated due to PWC's breach of that agreement.
- (r) PWC has no liability to the Customer:
 - (i) for any act or omission of the IUSA Provider;
 - (ii) where PWC is unable to discharge its obligations under this Agreement due a failure by the IUSA Provider to comply with the Construction Works Interface Agreement or any Network Operating Agreement;
 - (iii) where PWC cannot provide services to the Customer due to any defect or deficiency in the design, installation, construction or commissioning of the Third Party IUSA Assets by the IUSA Provider.

Schedule 14 IUSA Functional Specification

[Note - relevant only if Schedule 13 applies]

Execution

Executed as a deed

**The common seal of Power and Water Corporation
ABN 15 947 352 360** was affixed in accordance with
its constitution in the presence of:

Signature

Signature

Full name (BLOCK LETTERS)

Full name (BLOCK LETTERS)

Position

Position

Executed by [Insert name and ABN of
Customer] in accordance with section 127
of the Corporations Act 2001 (Cth) by:

Signature of Director

Signature of Director/Secretary

Full name
(BLOCK LETTERS)

Full name
(BLOCK LETTERS)

Annexure 1 Operating Protocols
