



UNITED ENERGY – WORKS CONTRACT – SCHEDULE OF CONTRACT PARTICULARS

United Energy Distribution Pty Ltd ABN 70 064 651 029 43-45 Centreway, Mount Waverley VIC 3149	
Customer Registered Business Name: Trading Name: ABN: Address: Customer Contact: Phone:	

Contract No	***
Date of issue	
File No	

Defined Terms

Premises	
Issuing Office	
Customer's Postal Address	
Planned Construction Completion Date	
Connection Point (Point(s) of Supply)	*At the Low Voltage Terminal of the Substation *Where the low Voltage cable crosses the customers property boundary
Maximum Capacity Supply	kVA

Premises Connection Assets and other Equipment to be installed on the Premises by UE	
UE Extension or Augmentation Works	

Further Information:

Nominal supply voltage	400 / 230 V 3ph/1ph		
UE Contact		Phone	

Contract Number: _____

Execution Page

Executed by United Energy Distribution Pty Ltd)
by its duly authorised officer in the)
presence of:)
)
)

.....

Witness

.....

Officer

.....

Name of Witness

(BLOCK LETTERS)

.....

Name of Officer

(BLOCK LETTERS)

Executed by [Insert name of Customer])
by its duly authorised officer in the presence of:)
)
)
)

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Witness

.....

Officer

.....

Name of Witness

(BLOCK LETTERS)

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Name of Officer

(BLOCK LETTERS)



UNITED ENERGY DISTRIBUTION PTY LIMITED

ABN 70 064 651 029

("United Energy")

Works Contract

The parties are named in the Schedule of Contract Particulars.

That Schedule also includes other particulars and the identification or definition of certain terms used in this Contract

INTRODUCTION

This Contract sets out the terms upon which United Energy will undertake works for the Customer.

TERMS AND CONDITIONS

1 What makes up this Contract

This Contract is comprised of:

- (a) These terms and conditions (including any Schedules);
- (b) The covering offer letter to which these terms and conditions were attached or which letter referred to these terms and conditions (**Offer Letter**) including all other attachments to that Offer Letter.

2 Subject Matter of this Contract

This Contract deals with the terms upon which UE will undertake works, which works may include the establishment of a new Connection to the Premises, alteration of an existing Connection or other works in relation to the UE electricity distribution system.

This Contract does not deal with the ongoing supply of electricity by UE to the Premises or the terms upon which UE will maintain a Connection to the Premises (such matters are the subject of separate contractual arrangements).

3 Conditions Precedent

- (a) UE's obligation to undertake the UE Works and the commencement of this Contract (apart from clauses 4, 13, 20, 26 to 31 which clauses commence upon the Customer's execution of the Offer Letter) is conditional upon the satisfaction of the Conditions.
- (b) The Conditions are:
 - (i) where the Offer Letter provides that the Customer is required to grant UE (or procure the grant to UE of) one or more Leases and Easements as a condition to this Contract taking effect, such Leases and Easements have been registered and all other steps referred to in clause 4 have been completed in respect of those Leases and Easements;

- (ii) the Customer has satisfied UE, acting reasonably, that UE will have all safe and unhindered access to the Premises as required to undertake the UE Works;
- (iii) UE has obtained, on terms satisfactory to UE in its absolute discretion, all UE Approvals UE considers should be obtained as a condition to commencement of the UE Works;
- (iv) The Customer has obtained all Customer Approvals on terms satisfactory to the Customer and UE; and
- (v) Any other conditions set out in the Offer Letter.

(c) The Customer must provide to UE such co-operation and assistance as UE requires to enable UE to obtain the UE Approvals.

(d) UE, in its absolute discretion, may waive any of the Conditions by notice to the Customer. No waiver of a Condition constitutes a waiver of any other Condition.

(e) If within 25 Business Days of the Contract Acceptance Date the Conditions have not been satisfied or waived by UE then UE may terminate this Contract by notice to the Customer. Upon the issue of that notice this Contract will cease to be of any force and effect (but without prejudice to the accrued rights and obligations of the parties).

(f) Where this Contract terminates under this clause 3, the Customer must pay UE the amount determined under clause 3(g) (if a positive amount) or UE will refund that amount to the Customer (if a negative amount). Such amount must be paid by the date stated in the invoice from UE setting out the amount of those costs.

(g) The amount payable by the Customer or refundable by UE is the sum of the costs incurred by UE in seeking to satisfy the Conditions up to the date of termination and the Project Fee less any part of the Works Charge paid by the Customer (and received by UE in cleared funds) prior to the date of termination.

(h) Where a Lease or Easement is required to be granted to UE, then UE may agree that all or part of the steps referred to in clause 3(b)(i) do not have to occur before UE commences the UE Works but may occur at a later date. However if such steps do not occur by the late date nominated by UE then UE may suspend the UE Works until such time as those steps are satisfied.

4 Leases/Easements

The Customer must ensure there is granted to UE (whether by the Customer or a third party) such Leases and Easements referred to in the Offer Letter and, where the Customer is establishing a subdivision or other equivalent development, such other Leases and Easements as UE requires to support the electrical infrastructure being constructed by UE and that they are registered by the times set out in this Contract (or if no time is set out then by such time specified by UE) in accordance with the following procedures:

- (a) Such Leases and Easements must be duly executed by the Customer (or relevant third party) and delivered to UE with the duplicate Certificate of Title for the underlying land;
- (b) The Customer must provide to UE all information, consents and co-operation as UE requires to ensure the Leases and Easements are registered on the title to the underlying land;
- (c) The customer must ensure all persons having a proprietary interest as mortgagee or caveator consent to the grant and registration of the Lease or Easement in a form acceptable to UE;
- (d) The Customer must pay to UE the costs of preparation of the Leases and Easements, the costs of obtaining any consent to their grant and registration and the costs of obtaining their registration.

5 Compliance with Laws and Standards

- (a) Each party must ensure that the Works it undertakes comply with the requirements of all applicable Energy Laws and Standards.
- (b) Each party must comply with their obligations under Energy Laws (except to the extent those obligations are expressly modified by a provision of this Contract and it is lawful to so modify those obligations).

6 Customer Works

- (a) The **Customer Works** include any works that the Offer Letter provides are to be performed by the Customer, any works described in this clause 6 and clause 7 and all activities which are incidental or related to the proper performance of those works.
- (b) Where the Offer Letter requires any auditing of the Customer Works then those Customer Works must be audited in accordance with any requirements specified in the Offer Letter and otherwise in accordance with UE's requirements as notified to the Customer. The Customer must provide all such assistance and co-operation required by UE to facilitate such audits. Where an audit identifies any deficiency in the Customer Works the Customer must remedy that deficiency and reimburse UE at the Standard Rates for any costs of further audits, inspection and testing to verify that the deficiency has been addressed.
- (c) Where the auditing procedures require the Customer to arrange for the audit then the Customer is responsible for paying the costs of the audit (including the auditor) and must use an auditor approved by UE.
- (d) If this Contract relates to the establishment of a Connection for End Use Premises then the Customer must in accordance with AS/NZS 3000:2000 Wiring Rules:
 - (i) install consumer mains between the Premises main switchboard and each Connection Point and the metering equipment;
 - (ii) provide a suitable mains connection box, complete with premises service connectors for the connection of any overhead/ underground service line of UE to the conductors referred to in 6(d)(i);
 - (iii) arrange for the Customer's Registered Electrical Contractor to install suitable metering isolation links to individually isolate the metering equipment.
- (e) Where this Contract relates to the establishment of a Connection for a Temporary Supply, the

Customer must (in addition to complying with clause 6(c)) ensure there is installed on the Premises a temporary supply installation which complies with AS/NZS 3000:2000 Wiring Rules and with AS/NZS 2012:2003 (Construction and Demolition Sites).

- (f) Where this Contract relates to the establishment of a new Connection or Connection alteration for End Use Premises then the Customer must ensure metering equipment (complying with Energy Laws and Standards) is installed at the Premises, unless UE agrees such metering equipment is not required to be installed. UE will only agree that the Customer is not required to install metering equipment if such equipment is not required under Energy Laws and UE considers the circumstances of the Connection are such metering equipment is not required (including having regard to UE's legitimate needs and those of other electricity industry participants).
- (g) In undertaking the Customer Works, the Customer must comply with any directions given by UE.
- (h) The Customer must ensure that the persons it engages to undertake the Customer Works have all registrations and certifications to enable them to lawfully undertake those Customer Works. Any work on an electrical installation must be undertaken by a Registered Electrical Contractor.
- (i) Where under the Offer Letter or otherwise the Customer is to provide any goods (for example lighting) to UE (with the intention those goods will be owned by UE), the Customer must ensure such goods
 - (i) comply with:
 - (A) all applicable Energy Laws and Standards; and
 - (B) any applicable requirements in the Offer Letter;
 - (ii) are new, free from defects, of merchantable quality and fit for the purpose for which they are to be used; and
 - (iii) conform to any applicable samples, patterns or other specifications,

and that title in such goods and materials vests in UE free and clear of all security interests and other encumbrances at the time UE takes possession of such goods and materials.
- (j) The Customer must ensure the Customer Works comply with any requirements specified in the Offer Letter.

7 High Voltage Customers

- (a) This clause 7 applies where the Customer is to take a high voltage supply at the Premises (being a supply above 650 volts) and the UE Works relate to establishing a new Connection or making a Connection alteration to the Premises.
- (b) The Customer must complete each of the following as a condition to UE commencing the UE Works (unless such infrastructure and equipment is already installed at the Premises in a manner UE has indicated is satisfactory to UE):
 - (i) supply and install the high voltage switchgear, incorporating a main incoming circuit breaker and associated protection system;
 - (ii) supply and install high voltage metering, including meters, associated metering transformers and a suitable metering enclosure;

- (iii) provide an earthing system to the Customer's high voltage installation which complies with AS/NZS 3000:2000 Wiring Rules;
 - (iv) complete any civil works required at the Premises, including trenching, supply and installation of conduits, backfilling and all reinstatement works required at the Premises,
- and allow UE to inspect each of the above to confirm the above tasks have been completed to a standard acceptable to UE.
- (c) If upon such an inspection UE identifies any deficiency in the works undertaken by the Customer UE will notify the Customer and the Customer must undertake such steps as required to address those deficiencies. This process will continue until UE notifies the Customer that UE has no further comments in respect of the works.
 - (d) Where under this clause 7, UE undertakes an inspection of works undertaken by the Customer on more than one occasion, then UE may charge the Customer at the Standard Rates for the time UE spends undertaking that inspection.
 - (e) The Customer must submit for UE's approval at least 20 Business Days prior to the planned date for completion of the Connection or Connection alteration:
 - (i) a detailed single line diagram of the Customer's high voltage electrical installation including the high voltage earthing system and diagrams of the Customer's electrical installation demonstrating that the electrical installations will be installed and operate in a manner compliant with this Contract;
 - (ii) the Customer's main circuit breaker specifications and protection settings (including as a minimum three phase overcurrent, earth fault and sensitive earth fault protection);
 - (iii) the Customer's high voltage operating and maintenance procedures (which must be prepared in accordance with such requirements set out on UE's website (applicable to high voltage operating procedures) and such other requirements notified by UE to the Customer;
 - (iv) the names and qualifications of the personnel who will operate the Customer's high voltage installation and the nature of the training to be undertaken by those personnel.
 - (f) UE is not obliged to complete the UE Works involved in establishing or altering the Connection until UE has approved the procedures, specifications, settings and diagrams submitted to UE under clause 7(e).
 - (g) If UE does not consider any procedures, specifications, settings or diagrams submitted to UE under clause 7(e) adequate to ensure the Customer's high voltage electrical installations operate safely, in a manner which will not threaten the safety and integrity of the UE electricity distribution system and in accordance with the Energy Laws and Standards, UE will notify the Customer of the deficiencies in the material submitted by the Customer and the Customer must resubmit the material modified to address UE's concerns. This process will continue until such time as UE approves the matter submitted by the Customer.
 - (h) Where UE does not consider the qualifications of the personnel referred to in clause 7(e)(iv) or the training they will undertake adequate to ensure the Customer's high voltage electrical installations operate safely and in accordance with the Energy Laws and Standards, UE will notify the Customer of the inadequacies identified by UE and the Customer must resubmit details of the personnel it proposes to use and the training they will undertake. This process will continue until UE approves the personnel and the training they will undertake.
 - (i) Where under this clause 7 UE reviews a matter on more than one occasion (that is proposed operating procedures, protection settings, diagrams, specifications, qualifications of personnel or proposed training procedures) then UE may charge the Customer at the Standard Rates for the time UE spends reviewing that matter.
 - (j) UE is under no obligation to Connect the Premises to UE's electricity distribution system until the Customer has obtained UE's approval to each of the matters referred to above in this clause 7 and until the Customer has provided to UE each of the following certified test reports:
 - (i) high voltage installation commissioning and test certificates as prescribed by AS/NZS 3000:2000 Wiring Rules;
 - (ii) a copy of the high voltage metering VT and CT test certificates; and
 - (iii) high voltage clearance to energise the installation.
 - (k) No review by UE of, comments made by UE on or failure by UE to identify a deficiency in any of the personnel qualifications and training, procedures, specifications, settings or diagrams submitted to UE under this clause 7 or works undertaken by the Customer relieves the Customer of any of its obligations or liabilities under this Contract or will result in UE assuming any responsibility for or liability in respect of those works, procedures, specifications, settings or diagrams.
- 8 Undertaking of UE Works**
- (a) Subject to the remaining provisions of this Contract, UE will undertake the UE Works.
 - (b) Where the UE Works require UE to install assets on the Premises then those assets will be installed by UE at such location as determined by UE (after consultation with the Customer). UE is not required to give effect to any request by the Customer as to the location at which assets are to be installed if UE considers this inappropriate due to safety or technical considerations or if this will increase the cost of the UE Works (from the cost assumed by UE) unless the Customer agrees to pay that additional cost.
 - (c) Where the location of the Connection Point is specified in the Offer Letter or a Schedule, this location is approximate only. The final location of the Connection Point will be determined by UE based on such safety and technical considerations as UE considers relevant.
 - (d) UE is not required to undertake the UE Works until it has received in cleared funds any part of the Works Charge required to be paid upon execution of this Contract in accordance with clause 13(b).
 - (e) Where any trees or other structures will impede the undertaking of the UE Works then, unless the Offer Letter provides that UE will clear those trees or other structures, the Customer is responsible for clearing those trees or other structures and must do so in a manner satisfactory to UE, in accordance with any directions UE may give and in a manner compliant with Energy Laws and Standards. UE is not required

- to commence the UE Works until the Customer has completed the clearance of those trees and other structures.
- (f) Where under clause 8(e) the Customer is to undertake any clearing of trees in proximity to UE's electricity distribution system, that clearing must be undertaken under the supervision of an authorised representative of UE. The Customer must pay for the supervision of that representative at the Standard Rates.
- (g) Where the UE Works involve the establishment of a new Connection or a Connection alteration, then UE is not required to establish that new Connection or alter the Connection until:
- (i) The Customer has provided to UE a completed "Electrical Works Request" (being a document of that name in such form as prescribed by UE from time to time);
- (ii) the Customer has provided to UE in such form as UE requires (and including by providing a Prescribed Certificate of Electricity Safety), substantiation that all electrical installations at the Premises have been installed by a Registered Electrical Contractor in accordance with applicable Energy Laws and Standards;
- (iii) where the Premises are under construction and the Connection is not to establish a Temporary Supply to the Premises:
- (A) the buildings on the Premises are completed to the lock up stage – that is the building's external walls and roof covering is fixed, the flooring laid and external doors and windows are fixed;
- (B) no building debris is obstructing the areas of the Premises to which UE requires access.
- (h) UE will give the Customer prior notice of the date upon which UE will commence that part of the UE Works which involves UE undertaking construction and/or installation activities.
- (i) UE will use its best endeavours to complete the UE Works within the period specified in the Schedule from the date referred to in clause 8(h).
- (j) The time required for UE to complete the UE Works may be extended by UE to reflect the delay caused to UE by the following circumstances, events, acts or omissions:
- (i) the Customer's failure to comply with this Contract;
- (ii) Latent Conditions at or in proximity to the Premises;
- (iii) the occurrence of circumstances referred to in clause 17;
- (iv) emergencies;
- (v) where UE needs to deploy resources from undertaking the UE Works to address adverse conditions affecting the UE electricity distribution system (for example storms or large scale power outages);
- (vi) delays caused to UE by third parties, including Government Agencies and operators of other infrastructure (for example roads or telecommunications infrastructure);
- (vii) where UE suspends the UE Works in circumstances permitted by this Contract.
- (k) UE will undertake the UE Works between the hours of 8.00am and 4.45pm on Business Days. UE has no obligation to undertake work outside these hours to overcome any delay caused to UE.
- (l) Where the circumstances in which the UE Works are required to be undertaken (including the requirements of applicable law) have the consequence that UE must undertake the UE Works outside of the hours referred to in clause 8(k), then UE may invoice the Customer, at the Standard Rates, for the additional costs UE incurs in undertaking work outside of those hours.
- (m) The Customer may request UE to work hours outside of those referred to in clause 8(k). UE will notify the Customer of UE's additional charges for working such hours. If the Customer agrees to those additional charges then UE will work those additional hours and may invoice the Customer for those additional charges.
- (n) Where as at the Contract Acceptance Date, the End Use Premises are not energised then UE will not energise the End User Premises until:
- (i) the Customer (or other occupant of the End Use Premises) has entered into a contract with an electricity retailer and provided to UE such evidence to substantiate such a contract has been entered into as UE requires;
- (ii) any metering equipment required to be installed by this Contract has been installed;
- (iii) the Customer or the Customer's Retailer has appointed a "Metering Provider" and "Metering Data Provider" for the Premises (as those terms are defined in the National Electricity Rules) and advised UE of the identity of the Metering Provider and Metering Data Provider.

9 Contract Demand and Supply Capacity

- (a) Where the UE Works involve the establishment of a Connection, or the alteration of a Connection, then that Connection will be made at the Contract Demand rate specified in the Schedule of Contract Particulars.
- (b) The Connection at the Connection Point will have a Maximum Supply Capacity measured in kilovolt Amperes (kVA) as specified in the Schedule of Contract Particulars.

10 Provision of Information by UE

- (a) Where this Contract relates to the making of a new Connection or making of a Connection alteration, then UE will provide to the Customer such information as the Customer reasonably requests in respect of the Connection.
- (b) The information UE provides does not extend to providing advice or making an assessment as to whether the electrical installations and other equipment the Customer is proposing to install are appropriate for the Customer's purposes. The Customer must make its own assessment of these matters and seek advice from a Registered Electrical Contractor or other qualified professional. Any information UE seeks, and comments it makes, about the Customer's Electrical Equipment are for UE's internal purposes and for the purposes of ensuring the integrity of the UE electricity distribution system and not for the purpose of providing advice to the Customer.

11 Ownership

- (a) All assets installed by UE on the Premises (including any metering installation, services lines and any other equipment) are the property of UE.
- (b) The Customer must not interfere in any way with any of the assets installed by UE on the Premises.
- (c) The Customer consents to UE lodging a caveat over the Premises to protect UE's interests in any assets installed by UE at the Premises (or to protect UE's interest in any executed but yet to be registered lease or easement). The Customer must not hinder in any way the lodgement of such a caveat and must provide such assistance as UE requires to enable UE to lodge the caveat.
- (d) The Customer must keep clear of UE assets installed on the Premises vegetation and other structures and materials.
- (e) The Customer must take reasonable steps to protect the UE assets installed on the Premises, including steps to ensure third parties do not interfere with those assets.
- (f) UE may use assets installed by UE to provide services to other customers of UE and, subject to Energy Laws, may alter, replace, upgrade, modify or deal with those assets from time to time in such manner as UE determines appropriate. UE may also remove the assets if UE determines they are no longer required (including because no further electricity supply is required at the Premises).

12 Payments

- (a) The Customer must pay to UE the Works Charge.
- (b) Unless otherwise provided in the Offer Letter, the full amount of the Works Charge must be paid to UE upon the Customer's entry into this Contract (as evidenced by the Customer's execution of the Offer Letter).
- (c) Where the Offer Letter sets out a schedule for payment of the Works Charge, then the Customer must pay the Works Charge in accordance with that schedule.
- (d) UE has no obligation to undertake any works or other activities under this Contract (including taking steps to satisfy the Conditions in clause 3) until the Customer has paid to UE the Works Charge (where clause 13(b) applies) or such part of the Works Charge required to be paid by the Customer upon the Customer's entry into this Contract (where clause 13(c) applies).
- (e) The Customer must pay to UE any other amounts referred to in this Contract (to the Works Charge). UE may from time to time issue invoices for such amounts.
- (f) An invoice issued by UE to the Customer must be paid by the Customer within the time specified in the invoice.

13 Charges Adjustment

- (a) If the Offer Letter provides that the Works Charge has been determined on the assumption that the amounts payable by UE to third parties to obtain the UE Approvals is not greater than a specified amount and the amount actually payable to third parties (including Government Agencies) exceeds that amount, then UE may issue an invoice to the Customer for such additional amount.
- (b) The Works Charge has, amongst other things, been determined by UE based upon information provided to UE both directly and indirectly (for example information provided to UE by the Customer's Retailer which was in turn obtained by the Customer's Retailer from the Customer) by the

Customer. If due to any inaccuracies in this information the Works Charge has been set at a level different to that at which it would have been set had the information been accurate, then UE may charge the Customer an additional amount to reflect the level at which the Works Charge would have been set had accurate information been provided.

- (c) If UE incurs additional costs in undertaking the UE Works due to the Customer's failure to comply with this Contract then UE may issue an invoice to the Customer for such additional amount. UE's additional costs will be calculated at the Standard Rates.
- (d) Where assets constructed by UE as part of the UE Works are later used to provide services to other premises and as a result the Customer is entitled to a refund under the National Electricity Rules or other Energy Laws, of part of the Works Charge or other amounts paid under this Contract by the Customer, then UE will allow the Customer that refund in accordance with the requirements of the National Electricity Rules and other applicable Energy Laws.

14 Information and Co-operation

- (a) The Customer must provide to UE such co-operation, assistance and information as UE may require. This obligation extends to providing any relevant officers, employees, agents, consultants and contractors of UE with such co-operation, assistance and information as they may require from time to time.
- (b) The Customer must ensure any information it provides to UE in respect of the Premises, the Customer's Work, the Customer's actual and projected requirements for electricity or otherwise relating to this Contract is accurate and complete.
- (c) The Customer must notify UE as soon as reasonably practicable if there is any change to any of the information the Customer has previously provided to UE (including information the Customer provides to its Retailer for further provision to UE).
- (d) Where due to:
 - (i) the provision by the Customer of information which is either inaccurate or incomplete;
 - (ii) the failure by the Customer to provide information requested by UE; or
 - (iii) the failure by the Customer to comply with clause 15(c),

UE incurs additional costs, then UE may charge the Customer for those additional costs. UE's additional costs will be calculated at the Standard Rates.

15 Access and Safety

- (a) The Customer must provide to UE (including its employees, agents and contractors) safe and unhindered access to the Premises at such time required by UE to undertake the UE Works. Such access includes permitting UE to bring on to the Premises such equipment and vehicles required by UE and ensuring the Premises has adequate roads or driveways to enable UE to bring such equipment and vehicles onto the Premises.
- (b) Where the Premises has site induction and safety procedures, the Customer must ensure that UE personnel who attend at the Premises are properly inducted in those procedures (provided those procedures must not be applied in an unreasonable manner which restricts UE's access to the Premises).
- (c) Where any third parties are in possession or control of or using any part of the Premises the Customer must ensure those parties do not hinder UE's

access to the Premises or the undertaking of the UE Works.

- (d) Where there are any hazards or other threats to safety on the Premises the Customer must ensure that UE is fully notified of those hazards and properly inducted in the procedures applicable at the Premises to avoid and mitigate such hazards and other safety threats.
- (e) The Customer must ensure that the Customer complies with any obligations of the Customer under the *Occupational Health & Safety Act 2004*, including ensuring the elimination or minimisation of any risks at the Premises to health and safety.
- (f) If UE considers the condition of the Premises unsafe for UE to undertake the UE Works, then UE may suspend the undertaking of the UE Works until the unsafe situation is rectified. The Customer must reimburse UE for any additional costs UE incurs due to such suspension which costs will be calculated at the Standard Rates (including idle labour time charged at the Standard Rates to the extent such idle labour cannot reasonably be deployed to other activities).
- (g) If the unsafe situation is not rectified within 30 days of UE notifying the Customer of the unsafe situation, UE may, by notice to the Customer, terminate this Contract.
- (h) The Customer must immediately notify UE if the Customer becomes aware of any danger or defect in any of the electrical installations at the Premises.

16 Force Majeure

UE is not liable to the Customer where it fails to perform an obligation under this Contract because it has been hindered or delayed in, or prevented from, performing that obligation by an event beyond UE's reasonable control. Without limitation, such events include:

- (a) inclement weather;
- (b) strikes or other industrial disturbances;
- (c) failures by other persons connected to the UE electricity distribution system to comply with their obligations to UE or under Energy Laws;
- (d) acts or omissions of third parties, including constraints imposed by third parties upon UE;
- (e) order of any court, or the order, act or omission or failure to act of any Government Agency or failure to obtain any necessary consent or approval of a Government Agency;
- (f) breakage or accident to plant, machinery, cabling or associated equipment;
- (g) difficulty, delay or failure in manufacture, production or supply by third parties of any goods (including plant and equipment) or services.

17 Liability

17.1 Exclusion of Warranties and Implied Terms

All warranties, terms and conditions relating to the subject matter of this Contract that are, or may at any time be, implied by law or custom are excluded to the maximum extent permitted by law except to the extent they are expressly incorporated into this Contract.

17.2 Limit on UE's Liability

- (a) Subject to clause 18.2(b), UE's total liability to the Customer arising directly or indirectly, wholly or in part pursuant to the performance or non-performance of UE's obligations under this Contract or otherwise in connection with this Contract is limited to :
 - (i) \$100,000 per occurrence or series of related occurrences for personal injury or death or loss

or damage to property caused by the negligent act or omission of UE; and

- (ii) for any other loss or damage of any type whatsoever the greater of (1) the Works Charge and (2) \$50,000.
- (b) UE has no liability to the Customer for any:
 - (i) loss of profit or revenue;
 - (ii) loss of opportunity, use or contract;
 - (iii) cost of capital, cost of substitute equipment, facilities or services or costs associated with supplying replacement electricity;
 - (iv) liability incurred by the Customer to any third parties (other than for personal injury or death);
 - (v) downtime costs;
 - (vi) costs of customer claims;
 - (vii) special loss; or
 - (viii) consequential loss

No paragraph of this clause 18.2(b) limits any other paragraph of this clause 18.2(b).

(c) This clause 18.2 applies to all claims of any nature which may be brought against UE whether in contract, tort, under statute, for breach of duty or on any other basis whatsoever.

(d) Nothing in this clause 18, or in any other part of this Contract, is taken to exclude or limit any immunities on UE's liability which UE has under statute or instruments made pursuant to statutes (such as the National Electricity Law).

17.3 Customer's Liability

The Customer must indemnify and keep UE indemnified against all losses and damages suffered and costs and expenses incurred by UE, and against any claims brought against UE, due to the failure by the Customer to comply with its obligations under this Contract.

17.4 Australian Consumer Law

- (a) Nothing in this Contract limits UE's liability for failure to comply with any Australian Consumer Law guarantees arising in respect of services provided by UE which services are of a type ordinarily acquired for personal, domestic or household use.
- (b) UE's liability for failure to comply with any Australian Consumer Law guarantees arising in respect of services provided by UE which services are not of a type ordinarily acquired for personal, domestic or household use is limited to an amount equal to the cost of having the service supplied again. However this clause 18.4(b) does not apply if the Customer establishes that UE's reliance on it is not fair and reasonable.

18 Assignment and Novation

18.1 Transfer of Occupancy of Premises

Subject to the remaining provisions of this clause 20, this Contract will remain binding upon the Customer if the Customer ceases to occupy the Premises and such occupancy is transferred to a third party.

18.2 Transfer of End Use Premises

- (a) This clause 18.2 applies if the Premises is solely an End-Use Premises.
- (b) The Customer must give UE not less than 45 days' notice of the Customer's intention to cease to occupy the Premises and of the identity of the new third party occupier of the Premises.

- (c) The Customer may request UE's consent to the novation of this Contract to that third party. UE will give that consent if satisfied, acting reasonably, that the third party is reputable and possesses technical and financial resources sufficient to perform the obligations of the Customer under this Contract.

18.3 Other Customer Dealings

The Customer must not assign, novate, transfer or otherwise deal with its rights and obligations under this Contract without the consent of UE. Except where clause 18.2(c) applies, such consent may be given or withheld by UE in its absolute discretion.

18.4 UE Dealings

- (a) UE may, by notice to the Customer, novate its rights and obligations under this Contract to any person provided that person holds a licence under the *Electricity Industry Act 2000* in respect of that part of UE's electricity distribution system servicing the Premises. Such novation will take effect from the time of, and in accordance with, the terms of the notice served by UE.
- (b) A notice under clause 18.4(a) may be given personally to the Customer or may be given by publication on UE's website or by publication in a newspaper circulating generally within the city of Melbourne.
- (c) The Customer must sign such documents as UE requests to evidence or give effect to novation by UE of this Contract in accordance with clause 18.4(b).
- (d) UE may, at any time, mortgage, pledge, charge or otherwise encumber its rights to and interest in this Contract in favour of any actual or prospective financier to UE.

19 Subcontracting

A party may subcontract the performance of its obligations under this Contract, but such subcontracting does not relieve the party of the obligation to ensure the discharge of those obligations.

20 Termination by Customer

- (a) The Customer may terminate this Contract by notice to UE where:
 - (i) UE commits a material breach of this Contract;
 - (ii) that breach adversely affects the Customer; and
 - (iii) within a period of 30 days from notice by the Customer of the breach UE has not either:
 - (A) remedied the breach; or
 - (B) provided to the Customer a cure plan setting out the procedures which UE will use to remedy the breach as soon as reasonably practicable.

UE must comply with any such cure plan provided to the Customer under clause 20(a).

- (b) Clause 20(a) sets out the Customer's exclusive rights to terminate this Contract due to a breach of this Contract by UE and any common law rights the Customer would otherwise have to terminate this Contract are excluded.
- (c) The Customer may terminate this Contract for convenience at any time prior to the completion of the UE Works provided it has UE's consent to such early termination (which consent will not be unreasonably withheld but may be given subject to conditions) but in such case the Customer must pay UE the amount due under clause 3. Such termination will only become effective once:

- (i) UE has received in cleared funds the amount due from the Customer under that clause 3;
- (ii) the Customer has complied with clause 20(d); and
- (iii) the Customer has complied with any other conditions imposed by UE.

- (d) If this Contract is terminated by UE, or by the Customer under clause 20(c), then, except to the extent UE notifies the Customer otherwise, the Customer must make safe all areas upon which the Customer was undertaking the Customer Works (excluding areas owned by the Customer) and otherwise comply with such directions as UE gives to ensure the early termination of this Contract does not pose a risk to the UE electricity distribution system or create any risk of UE incurring liability to third parties or to Government Agencies.

21 Suspension

Without limiting any other rights or remedies UE may have against the Customer where the Customer fails to comply with this Contract then UE may:

- (a) suspend the undertaking of the UE Works until the Customer remedies the non-compliance to UE's reasonable satisfaction; and/or
- (b) charge the Customer for any additional costs UE incurs due to such suspension, which costs will be calculated at the Standard Rates (including idle labour time charged at the Standard Rates to the extent such idle labour cannot reasonably be deployed to other activities).

22 Termination by UE

- (a) Where:
 - (i) the UE Works are suspended by UE under clause 23 for more than 21 days; or
 - (ii) other than due to UE's default, UE has not been able to complete the UE Works within 6 months of the Contract Acceptance Date;
 - (iii) the Customer has failed to pay an amount due to UE under this Contract by the due date for payment of that amount and has not remedied that failure to pay within 10 Business Days of notice from UE;
 - (iv) the Customer is subject to an Insolvency Event;
 - (v) the Customer commits any other breach of this Contract and does not remedy that breach within 10 Business Days of receipt of notice from UE specifying the breach,

then UE may by notice to the Customer terminate this Contract.

23 Payments on Termination

- (a) Where this Contract is terminated (other than by the Customer due to the default of UE) then the Customer is required to pay UE the sum of:
 - (i) the total costs incurred by UE under this Contract as part of, or in connection with, undertaking the UE Works as calculated at the Standard Rates (including any charge UE is entitled to levy upon the Customer pursuant to a provision of this Contract); and
 - (ii) the costs incurred by UE due to the termination, including costs of terminating arrangements with

contractors, cancelling or redeploying equipment orders and demobilisation costs,

(iii) less the total payment received by UE from the Customer prior to the date of termination.

(b) Clause 23(a) does not apply where this Contract is terminated under clause 3(e).

24 Dispute Resolution

24.1 Negotiation

Where a dispute arises between UE and the Customer then if requested by either party senior representatives of both parties will negotiate in good faith to settle that dispute for a period of not less than 14 days from the time a party first requests such negotiations take place.

24.2 No litigation during Negotiation Period

Other than proceedings for injunctive relief or proceedings which a party considers, in good faith, it needs to undertake as a matter of urgency to protect its legal or commercial position, neither party may commence legal proceedings during the period of any good faith negotiation under clause 26.1.

25 GST

25.1 GST Inclusive Prices

Clauses 25.1 to 25.5 and clause 25.7(c) do not apply to a charge which is expressed as being "GST-inclusive".

25.2 GST Gross-Up

If a party (**the supplier**) is required to pay GST in respect of a supply made under or in connection with (including by reason of a breach of) this Contract, the recipient of the supply must (in addition to any other payment for, or in connection with, the supply) pay to the supplier an amount equal to such GST (**GST gross-up**).

25.3 GST Invoice

If a GST gross-up is payable, then the supplier must give the recipient a tax invoice for the supply.

25.4 Payment

Provided a tax invoice has been given, the GST gross-up must be paid by the recipient:

- (a) if any monetary consideration is payable for the supply, at the same time and in the same manner as such monetary consideration;
- (b) if no monetary consideration is payable for the supply, within 10 Business Days after the day on which the tax invoice is given.

25.5 Reimbursements

If any payment to be made to a party under or in connection with this Contract is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with clause 25.2.

25.6 Adjustments

If an adjustment event has occurred in respect of a supply made under or in connection with this Contract, any party that becomes aware of the occurrence of that adjustment event must notify the other party as soon as practicable, and the parties agree to take whatever steps are necessary (including to issue an adjustment note), and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply, or any refund of GST (or part thereof), is paid no later than 20 Business Days after the supplier first becomes aware that the adjustment event has occurred.

25.7 Definitions

- (a) Terms used in this clause 25 which are defined in the *A New Tax System (Goods and Services Tax)*

Act 1999 (Cth) have the meaning given to them in that Act.

(b) In this clause 23, a reference to a payment includes any payment of money and any form of consideration other than payment of money.

(c) In this Contract, all references to payments and obligations to make payments, including all references to compensation (including by way of reimbursement or indemnity), are, but for the operation of this clause 25, exclusive of GST.

26 Confidential Information

26.1 Confidential Information

(a) UE will comply with its confidentiality obligations to the Customer under the Electricity Distribution Code.

(b) For the purposes of the Electricity Distribution Code the Customer consents to UE disclosing the Customer's confidential information to the extent required by UE to discharge an obligation or exercise a right of UE under this Contract.

(c) This Contract and all information disclosed by UE to the Customer under this Contract or during the negotiations preceding the commencement of this Contract is confidential to UE and may not be disclosed by the Customer except:

- (i) its employees and contractors, and the employees and contractors of any of its Related Bodies Corporate, requiring the information for the purposes of this Contract (or any transactions contemplated by it) provided the Customer must ensure such persons keep the information confidential; and
- (ii) its legal and other professional advisers, requiring the information for the purposes of this Contract (or any transactions contemplated by it) or for the purpose of advising that party in relation to this Contract provided the Customer must ensure such persons keep the information confidential;
- (iii) with the consent of UE, which consent will not be unreasonably withheld;
- (iv) to comply with any law or court order or to the extent required by a lawful requirement of a Government Agency provided the Customer must give UE notice as soon as the Customer becomes aware that it may be compelled to disclose such information, notifies the recipient of the information of its confidentiality and takes all reasonable steps to minimise the disclosure of the information;
- (v) if the information is at the time generally and publicly available other than as a result of breach of confidence by the Customer or any person to whom the Customer has disclosed the information.

26.2 Representatives to keep information confidential

Subject to clause 26.3, each party must procure that its employees and contractors, and the employees and contractors of any of its Related Bodies Corporate, its legal and other professional advisers do not disclose (otherwise than to the party) any information concerning the other party obtained under this Contract except in the circumstances specified in clause 26(a), or use the information other than for the purpose for which it was disclosed in accordance with this Contract.

26.3 Conditions on disclosure

(a) In the case of a disclosure under clause 28(e), the party proposing to make the disclosure must inform the proposed recipient of the confidentiality of the information and the party proposing to disclose must take all reasonable precautions to ensure that the proposed recipient keeps the information confidential.

- (b) If a party is permitted to disclose any confidential information in accordance with this clause 28, the party proposing to disclose must use reasonable endeavours to limit the disclosure to those matters which reasonably need to be disclosed in order to accomplish the relevant particular purpose.

26.4 Survival

The parties' obligations under this clause 6 continue after this Contract ends.

27 Notices

- (a) Any notices from the Customer to UE under this Contract must be in writing and provided to UE at the Issuing Office. A notice will only be regarded as received by UE when it is received by UE at its postal, facsimile or email address.
- (b) Any notices from UE to the Customer under this Contract must be in writing and provided to the Customer at the Customer's Postal Address.

28 Definitions

In this Contract, unless a contrary intention appears, the following terms have the meanings given below.

- (a) **Access Rights** means rights to access land and equipment, whether in the form of easements, leases, statutory rights or otherwise.
- (b) **AER Connection Charge Guidelines** means the connection charge guidelines published by the AER under Chapter 5A of the National Electricity Rules.
- (c) **Approvals** means:
- (i) Access Rights; and
 - (ii) a licence, permit, consent, certificate, approval or other authorisation required to be obtained pursuant to Energy Laws to perform an act or discharge an obligation.
- (d) **Bank Guarantee** means an unconditional payment undertaking in the form of a bank guarantee issued by an Australian bank.
- (e) **Business Day** means a day other than a Saturday, Sunday or public holiday in Melbourne, Victoria.
- (f) **Conditions** is defined in clause 3.
- (g) **Connection** means a physical link between the UE electricity distribution system and the Premises to allow the flow of electricity.
- (h) **Connection Point** means the point at which the UE electricity distribution system Connects to the Premises.
- (i) **Contract Acceptance Date** means the date on which the Customer executes the Offer Letter.
- (j) **Customer Approvals** means those Approvals the Customer requires to undertake any works or activities the Customer is required to undertake under this Contract and any other Approval the Offer Letter or Schedules provide are to be obtained by the Customer.
- (k) **Customer's Electrical Equipment** means any electrical installations and other assets on the Premises (other than assets installed by UE) which utilise electricity.
- (l) **Customer's Retailer** means the Retailer with whom the Customer has a contract for the sale of electricity at the Premises.
- (m) **Customer Works** is defined in clause 6(a).
- (n) **Easement** means an easement in the form requested by UE (which will be the form in which UE usually requires easements modified as UE requires to reflect any specific features of the land

over which the easement is granted or of the infrastructure (including the intended use of the infrastructure) for which the easement is required).

- (o) **End Use Premises** means premises (which may be all or part of the Premises) at which electricity is to be supplied for consumption by persons occupying or using that premises.
- (p) **Energy Laws** means all laws which are applicable to the subject matter of this Contract or which otherwise relate to the Victorian electricity industry, including without limitation laws relating to the planning, design, construction, use, operation and maintenance of the UE electricity distribution system, the use, operation and maintenance of the Customer's Electrical Equipment, the price payable for services provided by or in connection with the UE electricity distribution system and laws relating to safety. Such laws include the *Electricity Industry Act 2000* and regulations thereunder, the *Electricity Safety Act 1998* and regulations thereunder, the National Electricity Law, National Electricity Rules and all instruments, orders, binding guidelines and binding determinations issued under those statutes, regulations, law and rules (including the Electricity Distribution Code).
- (q) **Energy Laws and Standards** means the requirements of Energy Laws and:
- (i) the Australian/New Zealand Wiring Rules (AS/NZS 3000:2000);
 - (ii) all other applicable Australian Standards;
 - (iii) any other technical requirements set out in a Schedule or the Offer Letter.
- (r) **Government Agency** means any government department or any statutory, public, municipal, local or other authority charged with the responsibility for administering any Energy Laws.
- (s) **Insolvency Event** means the happening of one or more of the following events in relation to a party:
- (i) a resolution that it be wound up or that an administrator be appointed is passed;
 - (ii) an order is made that it be wound up or that a Controller (as defined in the *Corporations Act 2001*) be appointed to it or a liquidator, provisional liquidator, Controller or any similar official or an administrator is appointed to, or takes possession or control of, all or any of its assets or undertakings;
 - (iii) it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors, or an assignment for the benefit of any of, or any class of, its creditors (in each case, other than to carry out a reconstruction or amalgamation while solvent);
 - (iv) it is insolvent within the meaning of the *Corporations Act 2001* (Cth), as disclosed in its accounts or otherwise, states that it is unable to pay its debts or it is presumed to be insolvent under any applicable law;
 - (v) it stops or suspends the payment of all or a class of its debts or the conduct of all or a substantial part of its business.
- (t) **Interest Rate** means, for a day, the "Reference Rate" as most recently published by the Australia and New Zealand Banking Group Limited on its website (or if that rate ceases to be published or cannot be identified or determined then such other rate as is reasonably nominated by UE).

- (u) **Latent Conditions** means any conditions at any location at which UE must undertake UE Works which hinder or delay the undertaking of the UE Works, other than conditions of which UE was, prior to issue of the Offer Letter to the Customer, aware based upon information provided by the Customer to UE, of which UE was aware due to any site inspection undertaken by UE or of which UE was otherwise aware prior to issue of the Offer Letter to the Customer.
- (v) **Lease** means a lease in the form requested by UE (which will be the form in which UE usually requires leases modified as UE requires to reflect any specific features of the land over which the lease is granted or of the infrastructure (including the intended use of the infrastructure) for which the lease is required).
- (w) **Premises** means (if any) the premises specified in the Offer Letter or a Schedule to this Contract.
- (x) **Project Fee** means the costs incurred by UE in preparing this Contract (including any engineering or other analysis required to prepare this Contract) as charged in accordance with the Standard Rates. Matters such costs may relate to include costs of drafting this Contract, site inspection fees and costs of time spent in discussions and negotiations with the Customer.
- (y) **Proprietor Consent** means a consent by a person having a proprietary interest in the Premises or an interest as mortgagee or caveator to the grant of a Lease or Easement to UE over the Premises.
- (z) **Registered Electrical Contractor** means a person registered as such under the *Electricity Safety Act 1998*.
- (aa) **Related Body Corporate** has the meaning given to that term in the *Corporations Act 2001*.
- (bb) **Retailer** means a person authorised under the *Electricity Industry Act 2000* to sell electricity
- (cc) **Schedule** means the Schedule of Contract Particulars at the front of this Contract and any other schedule or annexure to this Contract.
- (dd) **Standard Rates** means, for work or a service provided by UE, the standard rate UE charges for that type of work or service as determined by UE from time to time (and which determination will be made by UE in accordance with any Energy Laws relevant to the determination) or if UE has not determined a rate for that work or service, then the cost incurred by UE in undertaking the work or service.
- (ee) **Supply Contract** means a contract under which UE agrees to supply electricity to the Premises (or part of the Premises, including End Use Premises forming part of the Premises).
- (ff) **Temporary Supply** means a Connection to supply electricity to premises where the nature of the supply is such that it will only be required for a defined period of time rather than on a permanent ongoing basis (for example the supply of electricity to a building site).
- (gg) **UE Approvals** means all Approvals (excluding Customer Approvals) which are required to be obtained by UE to undertake the UE Works and adequately operate, maintain and protect any infrastructure and equipment to be installed or modified by UE as part of the UE Works.
- (hh) **UE Works** means the works UE is to undertake pursuant to this Contract.
- (ii) **Works** means the UE Works or the Customer Works.

- (jj) **Works Charge** means the charge set out in the Offer Letter, being the principal (but not sole) amount payable by the Customer under this Contract in consideration of UE undertaking the UE Works.

Other terms and concepts used in this Contract are defined in the clauses in which they are used, are listed in the Schedules or are defined in the Offer Letter.

29 Miscellaneous

29.1 UE's rights and Powers at Law

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

29.2 UE Review

Any review UE undertakes of the Customer's Electrical Equipment or procedures relating to that equipment is undertaken for the purposes of managing the risk of any adverse impact of such equipment and procedures on the UE electricity distribution system. Such review, and any comments provided by UE, is not undertaken for the purpose of assessing whether the Customer's Electrical Equipment and procedures is appropriate for the Customer's own purposes and electricity requirements within the Premises. The Customer must make its own assessment of these matters and seek advice from a Registered Electrical Contractor or other qualified professional. Any information UE seeks, and comments it makes, about the Customer's Electrical Equipment are for UE's internal purposes and for the purpose of ensuring the integrity of the UE electricity distribution system and not for the purpose of providing advice to the Customer.

29.3 Interest

Where a payment under this Contract is not paid by the due date for payment of that amount then interest will accrue due on that amount at the Interest Rate which interest accrues from day to day from and including the due date for payment up to and including the actual date of payment.

29.4 No Waiver

A party waives a right under this Contract only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

29.5 Severance

If a provision of this Contract would, but for this clause 29.5, be unenforceable:

- (a) the provision will be read down to the extent necessary to avoid that result; and
- (b) if the provision cannot be read down to that extent, it will be severed without affecting the validity and enforceability of the remainder of this Contract.

29.6 About This Document

This Contract records the entire Contract between the parties as to its subject matter. It supersedes all prior contracts, obligations, representations, conduct and understandings.

29.7 Governing Law

The laws of Victoria govern this Contract.

29.8 Further Acts

The parties must do all things reasonably required to facilitate the performance of the transactions contemplated by this Contract.

29.9 Amendment

- (a) This Contract may only be amended by a further document signed by the Customer and UE.
- (b) If the Customer requires an alteration to the Connection at the Premises then the Customer, or the Customer's Retailer, must make an application

to UE in accordance with the requirements of Chapter 5A of the National Electricity Rules.

29.10 No Generation

Nothing in this Contract permits the Customer to connect a generating system to the UE electricity distribution system. If the Customer wishes to connect a generating system to the UE electricity distribution system then the Customer, or the Customer's Retailer, must make an application to UE in accordance with the requirements of Chapter 5A or Chapter 5 of the National Electricity Rules. If there is a generating system at the Premises it must remain electrically isolated from the UE electricity distribution system until UE and the Customer have entered into an agreement setting out the terms upon which that generating system may be connected to the UE electricity distribution system.

29.11 Interpretation

In this Contract, unless a contrary intention appears:

- (a) words or expressions importing the singular include the plural and vice versa;
- (b) words or expressions importing a gender include the other gender;

- (c) words or expressions denoting individuals include corporations, firms, unincorporated bodies, government authorities and instrumentalities;
- (d) a reference to a party includes that party's successors and permitted assigns;
- (e) any obligation of two or more parties binds them jointly and severally;
- (f) no provision of this Contract will be construed adversely to UE solely on the ground that it was responsible for the preparation of the Contract;
- (g) a reference to this Contract or another document includes that document as amended, varied, novated, supplemented or replaced from time to time;
- (h) a reference to legislation or a provision of legislation includes:
 - (i) all regulations, orders or instruments issued under the legislation or provision; and
 - (ii) any modification, consolidation, amendment, re-enactment, replacement or codification of such legislation or provision;
- (i) any recitals, schedule or annexure form part of this Contract and have effect as if set out in full in the body of this Contract;
- (j) references to include and including are to be construed without limitation.