



Generator connection agreement

Endeavour Energy
ABN 11 247 365 823

and

[Name of Generator]

ABN/ACV Number

Terms and conditions

April 2018

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BETWEEN:

- (1) **Endeavour Energy** ABN 11 247 365 823 of 51 Huntingwood Drive, Huntingwood, NSW 2148;
and
- (1) **[Name of Generator]** ABN/ACN [number] of [address] (**Generator**).

RECITALS:

- (A) Endeavour Energy owns and operates the Distribution System.
- (B) The Generator owns and operates the Generating Plant and has requested connection of the Generating Plant to the Distribution System for the purpose of exporting electricity from the Generating Plant to the Distribution System.
- (C) The parties have agreed that Endeavour Energy will provide the Generator with Network Services in accordance with the terms and conditions set out in this agreement.

THE PARTIES AGREE AS FOLLOWS:

1.0 INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

AEMO means the Australian Energy Market Operator.

Agreed Maximum Export for the Connection Point is set out in Schedule 1.

Agreed Maximum Import for the Connection point is set out in Schedule 1.

Authorised means authorised under Endeavour Energy's Electrical Safety Rules.

Commencement Date is defined in Schedule 1.

Connection Point means the point or points, as agreed between Endeavour Energy and the Generator, at which the Generator's Facilities are connected to the Distribution System as specified in Schedule 1.

Customer Connection Service has the meaning given to that term in the National Energy Retail Law.

Distribution System means the electricity power lines and associated equipment and electricity structures from time to time owned and operated by Endeavour Energy, including those which provide the Network Services.

Distribution Use of System Service has the meaning given to that term in the Rules.

Electricity Law means the National Electricity Law, National Energy Retail Law, ESA, Electricity Safety Act, the Rules, the National Energy Retail Rules, Endeavour Energy's electricity distributor's licence and any other statute, regulation, ordinance, code or other law, whether state or federal, including any lawfully binding and relevant determination, decree, edict, declaration, ruling, order or other similar pronouncement relating, directly or indirectly, to the provision of Network Services to the Generator.

Electricity Safety Act means the *Electricity (Consumer Safety) Act 2004* (NSW).

Endeavour Energy's Electrical Safety Rules means the rules setting out the accepted safe methods for working on or near Endeavour Energy's electrical assets and represent the minimum accepted standards.

"Endeavour Energy" means the Endeavour Energy Network Operator Partnership (ABN 11 247 365 823), trading as Endeavour Energy, a partnership carried on under that name by:

- a) Edwards O Pty Limited (ACN 618 643 486) as trustee for the Edwards O Trust;
- b) ERIC Epsilon Operator Corporation 1 Pty Ltd (ACN 617 221 735) as trustee for the ERIC Epsilon Operator Trust 1;
- c) ERIC Epsilon Operator Corporation 2 Pty Ltd (ACN 617 221 744) as trustee for the ERIC Epsilon Operator Trust 2;
- d) ERIC Epsilon Operator Corporation 3 Pty Ltd (ACN 617 221 753) as trustee for the ERIC Epsilon Operator Trust 3; and
- e) ERIC Epsilon Operator Corporation 4 Pty Ltd (ACN 617 221 771) as trustee for the ERIC Epsilon Operator Trust 4.

ESA means the *Electricity Supply Act 1995* (NSW).

Expiry Date means the date specified in Schedule 1.

Financial Year means the period of 12 months commencing on 1 July.

Force Majeure in relation to a party, means any cause outside that party's control including, but not limited to, an act of God, fire, lightning, explosion, flood, subsistence, insurrection or civil disorder, war or military operation, sabotage, vandalism, embargo, government action, or compliance in good faith with any law, regulation or direction by any federal, state or local government or authorities (including AEMO), which is outside the reasonable control of the party or any industrial disputes affecting a party.

Generator's Facilities means the Generating Plant and all transmission lines, distribution lines, generation systems and connection assets owned or operated by the Generator, and any other plant owned or operated by the Generator.

Generating Plant means the generation system comprising one or more generating units as described in Schedule 1.

Generator's Property means any land, buildings or other structures owned, leased, operated or otherwise controlled or used by the Generator.

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

Input tax credit means has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Interest Rate means the following rate (expressed as percentage per annum):

- (a) the average of the bid rates shown at or about 10.30 am (Sydney time) on page BBSY on the Reuters Monitor System on the first day of that period for a term equivalent to that period for bills having a tenor of 90 days; or
- (b) if:

- (i) for any reason the rate referred to in paragraph (a) of this definition is not displayed for a term equivalent to the relevant period or such rate is no longer available; or
- (ii) in the opinion of the Financier, the basis on which that rate is displayed is changed and ceases to reflect the Financier's cost of funding to the same extent as at the date of this document,

then the rate determined by the Financier to be the average of the buying rates quoted to the Financier by three banks in the Australian market, as determined by the party entitled to receive interest, at or about 10.30 am (Sydney time) on the first day of the relevant period for bills having a tenor of 90 days.

National Energy Retail Law means the National Energy Retail Law set out in the Schedule to the *National Energy Retail Law (South Australia) Act 2011* (SA) as applied in New South Wales.

Network Services means the services referred to in clause 3.0 together with the other services provided by Endeavour Energy under this agreement.

Operating Protocol means the operating protocol from time to time agreed between the parties in accordance with clause 9.0.

Performance Standards means the performance standards prepared in accordance with the Rules set out in Schedule 3 as updated from time to time in accordance with the Rules.

Power System has the meaning given to that term in the Rules.

Power Transfer Capability means, at the Connection Point, the instantaneous capability of the Distribution System to transfer energy to or from the Generator's Facilities connected to the Connection Point.

Regulatory Authority means any government, governmental, semi-governmental or judicial entity or authority, including any self-regulatory organisation established under statute, AEMO, the Australian Energy Markets Commission, the Australian Energy Regulator and the Australian Competition and Consumer Commission.

Retail Customer has the meaning given to that term in the Rules.

Retailer has the meaning given to that term in the Rules.

Rules means the National Electricity Rules.

Supply Side means in the context of a connection point, is that side of the connection point which is part of the Distribution System.

Work Health and Safety Laws means the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2011* (NSW).

1.2 Interpretation

In this Agreement:

- (a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

- (c) a reference to a **party** includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (d) a reference to a **document** (including this Agreement) is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to a **statute** includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (f) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (g) a reference to a **party, clause, schedule, exhibit, attachment or annexure** is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this Agreement, and a reference to this Agreement includes all schedules, exhibits, attachments and annexures to it;
- (h) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (i) **includes** in any form is not a word of limitation;
- (j) a reference to **\$** or **dollar** is to Australian currency; and
- (k) words in italics have the meaning given to that term in the Rules.

2.0 TERM

Other than clauses 4.8, 9.0, 14.0, 16.0, 17.0, 19.0 and 20.0 which commence on execution, this agreement will commence on the Commencement Date and will terminate on the earliest of:

- (a) the date it terminates under clause 13.1 or 13.2;
- (b) the Expiry Date; and
- (c) the entry into any new or substitute agreement in place of this agreement.

3.0 NETWORK SERVICES

3.1 Provision of Network Services

Subject to the other terms of this agreement, Endeavour Energy agrees:

- (a) to connect the Generating Plant to the Distribution System at each of the Connection Points;
- (b) to allow the Generating Plant to remain connected to the Distribution System; and
- (c) to provide the Power Transfer Capability in clause 3.2;

3.2 Power Transfer Capability

- (a) Subject to this agreement Endeavour Energy will provide the Power Transfer Capability at the Connection Point to enable the Generator to:
 - (i) export electricity from the Generating Plant into Endeavour Energy's Distribution System up to but not exceeding the lesser of:
 - (A) the Agreed Maximum Export; and

- (B) the actual capacity of the Distribution System at the Connection Point from time to time; and
- (ii) import electricity from Endeavour Energy's Distribution System to the Generating Plant, for the purpose of starting up the Generating Plant from time to time and ancillary purposes, up to but not exceeding the lesser of:
 - (A) the Agreed Maximum Import; and
 - (B) the actual capacity of the Distribution System at the Connection Point from time to time.
- (iii) The Generator acknowledges that under this agreement, Endeavour Energy gives no warranty as to the capacity of the Distribution System at any given time to accept a particular level of export from, or provide any particular level of import to, the Generating Plant.

4.0 TECHNICAL REQUIREMENTS

4.1 Connection Point

The parties acknowledge that:

- (a) the Connection Point is as described and illustrated in Schedule 1; and
- (b) Endeavour Energy owns all of the assets and equipment on the Supply Side of the Connection Point (and those assets form part of the Distribution System). The Generator has no right, title or interest in any assets or equipment forming part of the Distribution System.

4.2 Generator's Facilities

- (a) The Generator's Facilities comprise the plant and equipment set out in Schedule 2.
- (b) The Generator owns the Generator's Facilities. Endeavour Energy has no right, title or interest in the Generator's Facilities.
- (c) The Generator must operate and maintain the Generator's Facilities in a manner and to a standard consistent with:
 - (i) this agreement, including the Performance Standards;
 - (ii) Good Electricity Industry Practice;
 - (iii) all applicable laws and regulatory requirements, including the Rules; and
 - (iv) all applicable Australian Standards.

4.3 Control and Protection Settings for New or Replacement Equipment

Without limiting clause 4.6 of this agreement, the Generator must comply with clause 5.8 of the Rules in relation to the proposed commissioning of any new or replacement equipment that could reasonably be expected to alter performance of the Power System (other than replacement by identical equipment), including in relation to proposed parameter settings.

4.4 Signals, Alarm and Control Information

The Generator must provide the signal and alarm information as specified in Schedule 4.

4.5 Compliance with Rules

The Generator must comply with the Rules and any directions given by AEMO in relation to the ownership, operation, maintenance and modification of the Generator's Facilities.

4.6 Metering

Endeavour Energy and the Generator must comply with Schedule 5.

4.7 Compliance Monitoring Program

- (a) The Generator must, by the Commencement Date, institute and maintain a compliance monitoring program which complies with clause 4.15(c) of the Rules. As at the date of this agreement, the template for generator compliance programs, as referred to in clause 4.15(c) of the Rules and approved by the Reliability Panel, can be found at www.aemc.gov.au.
- (b) The Generator must, in accordance with clause 5.7.3 of the Rules and the compliance monitoring program referred to in clause 4.8(a) of this agreement, provide evidence to Endeavour Energy that the Generator's Facilities comply with the Rules and this agreement, including the Performance Standards.
- (c) The Generator acknowledges that the Generator's compliance monitoring program is the responsibility of the Generator, and no input into that compliance monitoring program by Endeavour Energy will give rise to any liability on the part of Endeavour Energy.

4.8 Generator's Work Health and Safety obligations

- (a) The Generator must, in carrying out its obligations under clause 4.0, comply with Work Health and Safety Laws as applicable.
- (b) The Generator must ensure that any person engaged by the Generator as required by clause 4.0 and the terms of this agreement complies with Work Health and Safety Laws as applicable.

5.0 MODIFICATIONS TO EXISTING CONNECTION

Where modification to a Connection Point is agreed by the parties or is otherwise effected by Endeavour Energy, the parties must, to the extent necessary to take account of that modification, amend the details of the relevant Schedules to this agreement and provide to Endeavour Energy updated records and diagrams in respect of the Connection Point.

6.0 INTERRUPTION TO SUPPLY

6.1 Application of clauses 12.0 and 13.0

Clauses 12.0 and 13.0 do not apply to a disconnection under this clause 6.0.

6.2 Planned outages – maintenance work

- (a) Endeavour Energy may from time to time interrupt the provision of Network Services, reduce the Power Transfer Capability at the Connection Point and/or disconnect the Connection Point to enable Endeavour Energy to carry out planned maintenance, repair or augmentation to the Distribution System (including any metering equipment), or the installation of a new connection or connection alteration.
- (b) Endeavour Energy will, where reasonable, consult with the Generator regarding suitable outage times and durations under clause 6.2(a) and where reasonable, Endeavour Energy agrees to provide at least 10 business days' written notice of its intention to disconnect, interrupt or reduce the export of electricity from the Generating Plant to the Distribution System under clause 6.2(a).

6.3 Unplanned outages

- (a) The Generator acknowledges and agrees that interruptions to the provision of Network Services and Power Transfer Capability may occur in a range of circumstances and for a range of reasons. These may include (among other things) interruptions due to events outside Endeavour Energy's control (such as weather events).
- (b) Without limiting clause 6.3(a), Endeavour Energy may:
 - (i) disconnect, interrupt the provision of Network Services, or reduce the Power Transfer Capability;
 - (ii) enter the Generator's Property in accordance with clause 7.0; or
 - (iii) take other reasonable action,at any time:
 - (iv) in the event of an emergency or other situation requiring, in Endeavour Energy's opinion, urgent action, including system instability;
 - (v) for health and safety reasons;
 - (vi) in accordance with a valid direction from AEMO or any other legally binding instruction, direction or order received by Endeavour Energy; or
 - (vii) in any other circumstance permitted by law.

6.4 Reconnection after outages

Endeavour Energy will reconnect the Generator's Facilities to the Distribution System, or cease any interruption to the Network Services or reduction of the Power Transfer Capability as soon as practicable, in accordance with Good Electricity Industry Practice.

7.0 ACCESS, INSPECTION AND TESTING

7.1 Access to other party's property

- (a) **Rights of access**
 - (i) Endeavour Energy and its officers, employees, agents and contractors may enter the Generator's Property for the purpose of carrying out its obligations under this agreement and in exercise of any power of entry conferred on it under any Electricity Law, including rights of entry and forcible entry under the National Electricity Law, the ESA and under the Electricity Safety Act.
 - (ii) Without limiting the generality of clause 7.1(a)(i), Endeavour Energy may also enter the Generator's Property for the following purposes:
 - (A) to install or remove Endeavour Energy equipment necessary for the provision of Network Services;
 - (B) to gain access to installed Endeavour Energy equipment for the purpose of maintenance;
 - (C) to gain access to Endeavour Energy equipment for the purpose of operating the Distribution System;

- (D) to gain access to install, inspect or maintain metering installation; or
 - (E) to disconnect, dismantle, decommission and remove facilities during and after the term of this agreement.
- (iii) Endeavour Energy must give the Generator reasonable prior notice of any requirement to enter the Generator's Property, unless in an emergency.
- (iv) Endeavour Energy must ensure that its officers, employees, agents and contractors:
- (A) do not unreasonably interfere with the operation of the Generator's Facilities;
 - (B) are accompanied at all times by an authorised representative of the Generator;
 - (C) follow the reasonable directions of the Generator's authorised representative; and
 - (D) comply with the Generator's safety policies regarding the behaviour of visitors on its sites that have been provided to Endeavour Energy,
- while at the Generator's Property.
- (b) The Generator must fit all relevant doors and gates with such master key locks as are specified by Endeavour Energy which are sufficient to allow Endeavour Energy and its servants, employees and agents and their equipment, including heavy vehicles, access to all Endeavour Energy plant and Endeavour Energy equipment located on the Generator's Property at any time.
- (c) The provisions of clause 7.1(a) and 7.1(b) survive for a period of 6 months after expiration or termination of this agreement.

7.2 Generator access to Endeavour Energy property

If any of the Generator's Facilities are to be located or are located on Endeavour Energy's property and the Generator requires access or will require access to the same for the proper performance of this agreement, the Generator by a duly Authorised employee or agent, may access Endeavour Energy's property to operate and maintain that equipment provided that the Generator must comply with the Operating Protocol and any reasonable requirements imposed by Endeavour Energy as a condition of allowing such access.

7.3 Access for Metering Provider

To the extent that any metering equipment is located on the Generator's Property, the Generator agrees that the relevant Metering Provider, Responsible Person and Metering Coordinator (as those terms are defined in the Rules) will have :

- (a) **(Right of Access to Install etc)** a right of access to and over the Generator's Property for the purpose of installing, testing, inspecting, maintaining, reading, repairing, replacing, operating or removing any metering equipment and for any other purpose related to this; and
- (b) **(Right to Use Amenities)** a right to use amenities available to the Generator which are associated with or ordinarily used in association with any metering equipment.

8.0 OPERATING PROTOCOL

- (a) The parties must from time to time, and in any event no later than the Commencement Date, agree on an operating protocol to address:
 - (i) maintenance of high voltage equipment;
 - (ii) the planning of outages;
 - (iii) maintenance by the Generator of the area around the Connection Point and Endeavour Energy Equipment, including but not limited to clearing vegetation and maintaining such clearance;
 - (iv) conditions of access to Endeavour Energy's property;
 - (v) the availability of a WHS management plan by the Generator which complies with *Work Health and Safety Regulation 2011* (NSW); and
 - (vi) other matters agreed by the parties.
- (b) Endeavour Energy and the Generator must comply with the Operating Protocol.

9.0 INFORMATION EXCHANGE

9.1 Performance reporting by Endeavour Energy to the Generator

- (a) Following any unplanned or planned outage to the electricity connection to the Generator's Facilities occurring on the Supply Side, Endeavour Energy will, if requested to do so by the Generator, provide the Generator with a report on that outage within 14 days of that request.
- (b) Following any planned or unplanned outage to the Generator's Facilities, the Generator will, if requested to by Endeavour Energy, provide Endeavour Energy with a report on that outage within 14 days of that request.

9.2 Network planning and development

To enable Endeavour Energy to undertake the planning and development of its Distribution System and to assist it in assessing the performance and future planning of the Distribution System, the Generator must, on reasonable request from Endeavour Energy, provide Endeavour Energy with such data, forecasts and aggregate information as the Generator is reasonably able to provide or which is required under the Rules.

9.3 Parties to maintain records

A party must maintain records as specified in Schedule 6 and such other records, data and other information as the parties from time to time agree upon. The records must be maintained in sufficient detail to permit the proper performance of this agreement.

9.4 Information and data

Each party must exchange the connection data specified in Schedule 9 and any other data required to be produced under any Electricity Law in relation to this agreement or the performance of it, and will:

- (c) regularly review this data to ensure its accuracy is maintained within good electricity industry practice;
- (d) promptly advise the other party of any variations in the data; and

- (e) where necessary, negotiate with a view to amending this agreement, taking into account the impact that any variation in data may have on the legitimate interest of the other party.

9.5 Form and retention

The records maintained under clause 9.3 may be in written or electronic form and must be maintained for as long as agreed by the parties or required by law or the Rules and must include the following details:

- (a) the record being maintained;
- (b) the party responsible for maintaining the record;
- (c) the form in which the record is being maintained; and
- (d) the retention time of the record.

9.6 Access to records

Each party will make the records referred to in clause 9.3 and 9.4 available to the other party as reasonably requested from time to time.

10.0 CHARGES

10.1 Charges

- (a) Charges for the Network Services will be in accordance with the Rules from time to time.
- (b) The charges for Network Services as well as amounts payable under the Rules to the Generator by Endeavour Energy as at the date of this agreement are set out in Schedule 7.
- (c) Endeavour Energy will advise the Generator of any changes to the charges.
- (d) Charges under this agreement must be paid in accordance with clause 11.0.

10.2 GST

- (a) All amounts payable or the value of other consideration provided in respect of supplies made in relation to this agreement are exclusive of GST (if any). If a GST is levied or imposed on any supply made (or deemed to have been made) under or in accordance with this agreement, the amounts payable or the value of the consideration provided for that supply (or deemed supply) (Payment) will be increased by such amount as is necessary to ensure that the amount of the Payment net of GST is the same as it would have been prior to the imposition of GST.
- (b) Where any amount is payable as a reimbursement, indemnification or similar payment calculated by reference to a loss, cost, expense or other amount incurred, then that amount must be reduced by any input tax credit available to that party and, if a taxable supply, must be increased by the GST payable in relation to the supply and a Tax Invoice will be provided by the party being reimbursed or indemnified.
- (c) All GST payable will be payable at the time any payment to which it relates is payable. Where any GST payable is not referable to an actual payment then it will be payable within 10 days of a tax invoice being issued by the party making the supply.
- (d) Where in relation to this agreement a party makes a taxable supply, that party must provide a tax invoice in respect of that supply before the GST payable in respect of that supply becomes due.

- (e) GST means goods and services tax or similar value added tax levied or imposed in the Commonwealth of Australia pursuant to the GST law.
- (f) GST law has the meaning given to such term in *A New Tax System (Goods and Services Tax) Act 1999* of Australia or a successor Act.
- (g) Terms defined in *A New Tax System (Goods and Services Tax) Act 1999* of Australia have the same meaning when used in this clause.

11.0 BILLING AND PAYMENT

11.1 Network use of system charges

- (a) If the Generator:
 - (i) is registered with AEMO as a Non-Market Generator;
 - (ii) receives electricity supply at the Connection Point from a Retailer; and
 - (iii) the Retailer has agreed to pay network use of system charges on the Generator's behalf,

Endeavour Energy will invoice the Retailer for those charges, the Generator must pay the retailer. When the Generator pays the Retailer, Endeavour Energy will accept that those charges have been paid.

- (b) If clause 11.1(a) does not apply, Endeavour Energy will issue invoices to the Generator for network use of system charges on a monthly basis.

11.2 Avoided TUOS

- (a) Endeavour Energy will calculate and pay Avoided TUOS charges after the end of each financial year (in arrears) in accordance with the Rules.
- (b) Endeavour Energy's obligation to pay Avoided TUOS subsists only for so long as there is such a requirement under the Rules.

11.3 Payment of invoices

The Generator must pay or arrange for payment of any invoices within 15 days of issue. Payment may be effected by:

- (a) electronic funds transfer in immediately available funds into the creditor's nominated bank account as notified to the debtor from time to time; or
- (b) cheque, payment only to be effective when cleared funds are credited to the creditor's bank account.

11.4 Interest on late payment

Any amount payable under clause 11.3 which remains unpaid by the debtor after the date it is due under clause 11.3 is a debt to the creditor and shall attract interest at 2.5% above the current Interest Rate compounded daily from and including the date it is due to but excluding the date that the debt and all interest on it is paid in full.

11.5 Disputed accounts

Any disputes between the parties in relation to invoices issued under this agreement which have not been resolved within 10 business days of notice of the dispute from one party to the other may be referred by either party for resolution under clause 17.0.

12.0 DISCONNECTION AND RECONNECTION

12.1 Right to Disconnect

- (a) Without limiting its other rights under the agreement, the Generator acknowledges that Endeavour Energy, as an electricity distributor, has rights to disconnect and reconnect under the Electricity Laws.
- (b) Subject to clause 12.1(c), Endeavour Energy may disconnect the Generator's Facilities from the Distribution System in the event that:
 - (i) the Generator does not pay on time any charges which are due under this agreement;
 - (ii) the Generator refuses or fails to give Endeavour Energy or any of its authorised representatives access to the Generator's Property where required;
 - (iii) a receiver, administrator or liquidator is appointed over any part of the Generator's undertaking or assets or the Generator becomes unable to, or declares that it is unable to pay its debts as they fall due;
 - (iv) the Generator's Retailer requests Endeavour Energy to disconnect the Generator's Facilities and has notified Endeavour Energy that it has a right to arrange for disconnection under the Generator's contract with the Retailer;
 - (v) the Generator uses electricity supplied to the Connection Point wrongfully or illegally;
 - (vi) the Generator provides false information to Endeavour Energy or to the Generator's Retailer such that the Generator would not have been entitled to be or remain connected had the Generator not provided the false information;
 - (vii) the Generator does not provide and maintain space, equipment, facilities or anything else that the Generator must provide under the Electricity Laws or this agreement in order for Endeavour Energy to provide the Network Services;
 - (viii) the Generator ceases to hold any relevant licence, approval, authorisation or consent necessary for it to operate as a Generator and to export electricity from the Generating Plant to the Distribution System;
 - (ix) the Generator transfers ownership or control of the Generator's Facilities to another person, and this Agreement is not novated to that person in accordance with clause 20.0; or
 - (x) the Generator is in breach of any of its other obligations under this agreement including its obligation to comply with the Operating Protocol set out in clause 8.0(b).
- (c) Endeavour Energy will not disconnect the Generator's Facilities from its Distribution System in accordance with clause 12.1 unless Endeavour Energy has first provided the Generator with reasonable notice of its intention to disconnect, and has given the Generator reasonable time to remedy the event giving rise to the right to disconnect unless the nature of the circumstances requires in Endeavour Energy's opinion urgent action to be taken.
- (d) In the event that Endeavour Energy disconnects the Generator's Facilities from its Distribution System, Endeavour Energy need not reconnect the Generator's Facilities to its Distribution System until the Generator can establish to Endeavour Energy's

reasonable satisfaction that it has paid all moneys which are owing and presently due and payable to Endeavour Energy or that it has otherwise remedied the relevant matter and that it is able to comply with all of its obligations under this agreement.

12.2 Costs of disconnection

Where Endeavour Energy disconnects the Generator from the Distribution System in the circumstances described in this clause 12.0, the Generator will on demand made by Endeavour Energy, pay Endeavour Energy the costs and expenses incurred by Endeavour Energy relating to:

- (a) the disconnection; and
- (b) any subsequent reconnection under this agreement.

13.0 TERMINATION

13.1 Termination by Endeavour Energy

Endeavour Energy may terminate this agreement if:

- (a) Endeavour Energy has, in accordance with its entitlements under clause 12.0, disconnected the Generator's Facilities from the Distribution System and such disconnection has continued for 60 business days; or
- (b) the Generator permanently decommissions or abandons the Generating Plant,

following which Endeavour Energy may disconnect the Generator's Facilities (if they have not already been disconnected).

13.2 Other rights of termination

Either party may terminate this agreement where:

- (a) the period of Force Majeure claimed by the other party and notified in accordance with clause 15.0 has lasted, or is reasonably expected to last, longer than 90 business days; or
- (b) a receiver, administrator or liquidator is appointed over any part of the other party's undertaking or assets or it becomes unable to, or declares itself unable to pay its debts as they fall due; or
- (c) the other party has been in repeated breach of any material provision of this agreement which is adverse to the interests of the terminating party.

13.3 Notice of termination

If an event entitling termination under clause 13.1 or 13.2 (a **termination event**) has occurred, the party entitled to terminate must give to the other party 20 business days' written notice of termination.

13.4 No impact on accrued rights or obligations

The termination of this agreement does not affect the rights or obligations of the parties under this agreement which have accrued prior to the date of termination or any obligations or rights which survive such termination. To avoid any doubt, the Generator's obligation to pay any amount to Endeavour Energy under this agreement is a continuing obligation, separate and independent from the other obligations of the Generator, and survives termination of this agreement.

14.0 FORCE MAJEURE

14.1 Force Majeure

If either party fails to comply with or observe any provision of this agreement (other than a requirement to pay any money) and such failure is caused by Force Majeure, that failure will not give rise to any cause of action or liability based on breach of the relevant provision of this agreement to the extent such failure is caused by Force Majeure.

14.2 Notice

If a party becomes aware of a serious prospect of a forthcoming Force Majeure, it will notify the other party as soon as reasonably practicable of the particulars of which it is aware. If a party invokes clause 14.1, it will notify the other party as soon as reasonably practicable of full particulars of the Force Majeure relied upon.

14.3 Avoidance of and Mitigation

The party invoking clause 14.1 will:

- (d) use all reasonable endeavours to overcome or avoid the Force Majeure;
- (e) use all reasonable endeavours to mitigate the effects or consequences of the Force Majeure; and
- (f) consult with the other party on the performance of the obligations referred to in clauses 14.3(d) and 14.3(e).

However, nothing in this clause 14.1 will be construed as requiring the party invoking clause 14.1 to settle a strike, lock-out or other industrial disturbance by acceding against its judgment to the demands of opposing parties.

15.0 LIABILITY

15.1 Endeavour Energy Liability

- (a) To the maximum extent permitted by law:
 - (i) Endeavour Energy is not liable for any loss, damage, liability, or claims incurred by or brought against the Generator (including, without limitation, in respect of any claims brought against the Generator by third parties including a Retailer or Retail Customer) or any other person:
 - (A) arising from Endeavour Energy disconnecting the Generator's Facilities from Endeavour Energy's Distribution System under and in accordance with this agreement or as permitted by law;
 - (B) for any interruption, partial interruption, irregularity, voltage or frequency deficiency or other deficiency in the export of electricity arising through any cause that is not due to Endeavour Energy's fault, negligence or breach of this agreement; and
 - (C) for any failure to provide any service or any deficiency in the service Endeavour Energy provides under this agreement not due to Endeavour Energy's fault, negligence or breach of this agreement; and
 - (ii) Endeavour Energy will not be liable in any way whatsoever for any:
 - (A) loss or damage to the extent that it is due to any matter or thing or cause not due to Endeavour Energy's fault, negligence or breach of this agreement; or

- (B) indirect, special or consequential loss or damage, including any liability to third parties, economic loss, loss of revenue or loss of profits, resulting or arising from the performance or non-performance of this agreement.

15.2 No Liability for Failure to Supply

The Generator acknowledges that the terms of this agreement do not represent a waiver by Endeavour Energy of, nor an agreement to vary or exclude, any limitation or exclusion of its liability under sections 119 or 120 of the National Electricity Law or under section 316 of the National Energy Retail Law.

15.3 Limitations of Liability

- (a) Endeavour Energy's liability for losses suffered by the Generator as a result of any act or omission of Endeavour Energy in relation to this agreement or the performance or non-performance of any obligations under this agreement, (other than a loss for which liability is otherwise excluded by this clause 15.0, any other clause of this agreement or any applicable law) is limited, in respect of all acts or omissions during a calendar year, to the lesser of the following:
 - (i) the cost of repair or replacement of any property damaged (as appropriate) as a result of that act or omission; or
 - (ii) \$1,000,000.

15.4 Damage to Endeavour Energy Equipment

If Endeavour Energy Equipment connected to the Generating Plant is damaged by any cause originating on the Generator's premises, the Generator must pay to Endeavour Energy the cost of repairing or replacing the damaged equipment, except where the damage was caused by Endeavour Energy's negligence, or by unavoidable circumstances.

16.0 CONFIDENTIALITY

- (a) Unless otherwise specifically provided for under this agreement, the terms of this agreement and information exchanged under this agreement is strictly confidential between the parties and must not be disclosed to any other person except:
 - (i) to legal advisers, auditors, financial advisers and bona fide consultants in respect of or pertaining to this agreement;
 - (ii) with the consent of the party who supplied the information;
 - (iii) if required by law, or any government or in connection with legal proceedings relating to this agreement;
 - (iv) if the information is generally and publicly available other than as a result of breach of confidentiality by the party receiving the information;
 - (v) as permitted under the Rules or National Electricity Law; or
 - (vi) to Endeavour Energy's shareholding ministers or any government instrumentality acting on their behalf.
- (b) Clause 16.0(a) survives termination of this agreement.

17.0 REPRESENTATIONS AND WARRANTIES

17.1 Representations by Both Parties

Each party makes the following representations and warranties for the benefit of the other party:

- (a) it is duly incorporated or established and validly existing;
- (b) it has full power, authority and legal right to execute, deliver and perform its obligations under this agreement; and
- (c) that execution of and performance of that party's obligations under this agreement will not amount to a breach of any contractual or other obligation owed by that party to a third party.

17.2 Representations by Generator

The Generator warrants that it is the owner of the Generator's Facilities and the Generator's Property.

18.0 DISPUTES AND GOVERNING LAW

- (a) The provisions of this clause 18.0 apply subject to any provision of the electricity law expressly providing otherwise.
- (b) If a dispute arises between the parties in connection with this agreement, the parties undertake in good faith to use all reasonable endeavours to settle the dispute.
- (c) If:
 - (i) a party has given to the other party notice of a dispute in connection with this agreement (a **dispute notice**); and
 - (ii) the parties are unable in good faith to settle the dispute within 14 days after the dispute notice has been received by the other party,then:
 - (iii) if the dispute is a dispute to which the dispute resolution process in Chapter 8 of the Rules applies, either party may refer the dispute to the advisor in accordance with clause 8.2.5 of the Rules; or
 - (iv) otherwise the dispute may be submitted to an arbitrator for arbitration in accordance with this clause.
- (d) The period of time referred to in clause 18.0(c)(c)(ii) may be extended by agreement between the parties.
- (e) If a party wishes to submit a dispute to arbitration it must give notice (an **arbitration notice**) the other party of its wish to do so.
- (f) The following procedures apply to the appointment of an arbitrator for the purposes of any arbitration proceedings under this clause:
 - (i) the parties will use reasonable endeavours to agree on a single arbitrator to hear the dispute within 14 days after receipt of arbitration notice; and
 - (ii) if the parties do not agree on the arbitrator to be appointed within the period referred to in clause 18.0(f)(i), request the President or the Acting President of the Resolution Institute to appoint an arbitrator within 14 days after the request is made.

- (g) The arbitration is to be conducted in accordance with and subject to the Rules of the Resolution Institute.
- (h) The parties agree to request the arbitrator to make its decision within 30 days after the dispute was submitted for arbitration.

19.0 NOTICES

19.1 Address for Notice

- (a) All notices and accounts issued under this agreement must be sent to the relevant address indicated in Schedule 7 or such other address as may from time to time be notified in writing by the parties to each other.
- (b) Without limiting the provisions of paragraph (a), the parties will advise each other from time to time of the names and contact details of relevant officers to whom operational communications should be directed.

19.2 Receipt of Notices and accounts

Notices and accounts given under clause 19.1 will be deemed to be received:

- (a) in the case of delivery by post, two business days after the date of posting; or
- (b) in the case of fax, on receipt by the sender of a transmission report from the despatching machine showing the relevant number of pages and the correct destination fax machine number and indicating that the transmission has been made without error, unless the recipient notifies the sender within 24 hours of the fax being sent that the fax was not received in its entirety in legible form.
- (c) If a notice is received on a day which is not a business day or after 5.00 pm on a business day, it is taken to be received on the next business day.

20.0 ASSIGNMENT AND NOVATION

- (a) Except for the assignment of a right to receive a payment under this agreement, neither party may assign or transfer its rights or obligations under this agreement without the consent of the other party.
- (b) It will not be reasonable for the Generator to withhold its consent to a novation by Endeavour Energy to a proposed transferee who:
 - (i) is or will at the time the novation is effective be the owner and/or operator of the Distribution System or the relevant part of it servicing the Generator, and
 - (ii) has or will at the time the novation is effective become the holder of an electricity distributor's licence and be registered as a Network Service Provider in respect of the distribution district in which the Generating Plant is located.
- (c) It will not be reasonable for Endeavour Energy to withhold its consent to a novation by the Generator to a proposed transferee who is or will at the time the novation is effective be the owner and/or operator of the Generator's Facilities and has the financial and technical capacity to fulfil the Generator's obligations under this agreement.
- (d) In the case of a proposal pursuant to clause 20.0(a), the assigning or transferring party must:
 - (i) prior to such assignment or novation, notify the other party of its intention; and
 - (ii) if clause 20.0(b) or (c) applies:

- (A) have the onus of establishing the applicable requirements specified in those clauses to the reasonable satisfaction of the other party; and
- (B) procure the proposed transferee to enter into a deed of novation with or for the benefit of the other party, under which the proposed transferee agrees to perform and observe all the obligations imposed on the transferring party by this agreement.

21.0 MISCELLANEOUS

21.1 Governing law

This agreement is governed by and must be construed according to the law applying in New South Wales.

21.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 21.2(a).

21.3 Amendments

This agreement may only be varied by a document signed by or on behalf of each party.

21.4 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this agreement.
- (b) A waiver or consent given by a party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

21.5 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this agreement.

21.6 Consents

A consent required under this agreement from a party may be given or withheld, or may be given subject to any conditions, as that party (in its absolute discretion) thinks fit, unless this agreement expressly provides otherwise.

21.7 Counterparts

This agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

21.8 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on a party's behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements expressly set out in this agreement.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for representations or inducements expressly set out in this agreement.

21.9 Expenses

- (a) Except as otherwise provided in this Agreement, the Generator must pay Endeavour Energy's costs and expenses in connection with negotiating, preparing and executing this Agreement.
- (b) Except as otherwise provided in this agreement, each party must bear its own costs of performing this agreement.

21.10 Stamp duties

The Generator:

- (a) must pay all stamp duties and any related fines and penalties in respect of this agreement, the performance of this agreement and each transaction effected by or made under this agreement; and
- (b) indemnifies Endeavour Energy against any liability arising from failure to comply with clause 21.10(a).

21.11 Entire agreement

To the extent permitted by law, in relation to its subject matter, this agreement:

- (a) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
- (b) supersedes any prior written or other agreement of the parties.

21.12 Indemnities

- (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 to make any payment before enforcing a right of indemnity conferred by this agreement.
- (c) A party must pay on demand any amount it must pay under an indemnity in this agreement.

Schedule 1

Connection Details

1.	Generating Plant description	
2.	Agreed Maximum Export	
3.	Agreed Maximum Import	
4.	Commencement Date	
5.	Expiry Date	
6.	Connection Point	

Interconnection Drawing

Schedule 2

Generator's Facilities

Generating Plant

[detailed description to be inserted]

Other plant and equipment (eg distribution lines etc) forming part of the Generator's Facilities

[detailed description to be inserted]

Schedule 3

Performance Standards

The Performance Standards are prepared in accordance with the Rules and updated from time to time in accordance with the Rules.

Schedule 4

Generator Protection, Signal, Alarm and Control Information

Supervisory Indication	The Generator must provide to Endeavour Energy, on an ongoing basis through the SCADA system, details of circuit breaker status, circuit breaker fail-to-trip alarm and MW and MVA _r analogue signals.
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Schedule 5

Metering

The Generator must comply with the Rules in order to ensure that there is a revenue metering installation at each Connection Point that is capable of recording electricity flows in all directions that power has a potential to flow.

For metering installations capable of recording import, export and reactive power flows, reactive power units (kVARh) during times when real power (kWh) is being imported from the Distribution System must be recorded separately from reactive power units during times when real power is being exported to the Distribution System.

Schedule 6

Records

1. Operating Log	<p>Each party must maintain a log (Operating Log) which records operation of protection equipment. The Operating Log will record the following information:</p> <p>(a) Protection Relay Operation:</p> <ul style="list-style-type: none">- date and time of relay operation;- relay protection function;- relay type and model number;- circuit number;- phase;- description of disturbance. <p>(b) Operational Communications:</p> <ul style="list-style-type: none">- date and time of communication;- brief description of communication.
2. Maintenance	<p>Each party must maintain a log (Maintenance Log) which records maintenance undertaken on protection equipment. The Maintenance Log shall record the following information:</p> <ul style="list-style-type: none">- date;- protection equipment details including relay type and model number;- description of maintenance performed.

Schedule 7

Charges

Charges for the Network Services will be in accordance with the Rules from time to time. Charges as at the time of execution are set out below. In the event of any change, Endeavour Energy will advise the Generator of the new charges.

Charges payable by the Generator to the Network Service Provider

1. Network Use of System (NUOS) Charges (for electricity import)	Will be calculated in accordance with the appropriate network tariff published by Endeavour Energy from time to time and applied to all demand and energy (as applicable) imported from the Distribution System at the Connection Point.
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Charges payable by the Network Service Provider to the Generator

1. Avoided TUOS	<p>Endeavour Energy will calculate and pay Avoided TUOS charges after the end of each financial year (in arrears) in accordance with the Rules.</p> <p>Endeavour Energy's obligation to pay Avoided TUOS subsists only for so long as there is such a requirement under the Rules.</p>
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Schedule 8

Address for Notices

1. Endeavour Energy	Endeavour Energy PO Box 6366 Blacktown NSW 2148
2. Generator	

Schedule 9

Information Exchange

[Relevant requirements of Rules clause S5.2.4(a) and schedule 5.5 to be inserted]

EXECUTED as an agreement.

SIGNED by the authorised representative
of **ENDEAVOUR ENERGY** in the
presence of:

Signature of witness

Name

Signature

Name

SIGNED by the authorised representative
of **[NAME OF GENERATOR]** in the
presence of:

Signature of witness

Name

Signature

Name