



DEEMED METERING CO- ORDINATOR CONTRACT FOR TYPE 5, 6 & 7 METERING INSTALLATIONS

Terms and Conditions

Effective from 1 September 2018



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PREAMBLE

This contract sets the terms and conditions for services that Endeavour Energy must provide to *financially responsible Market Participants* under clauses 7.6.4 and 11.86.7 of the NER.

1. THE PARTIES

This contract is between:

- Endeavour Energy who provides you with Services for Type 5, 6 and/or 7 metering installations (in this contract referred to as “we”, “our” or “us”); and
- You, the *financially responsible Market Participant* to whom this contract applies (in this contract referred to as “you” or “your”).

2. DEFINITIONS AND INTERPRETATION

2.1 Interpretation

Words written in italics have the meaning given in the National Electricity Rules.

2.2 Definitions

AER means the Australian Energy Regulator.

Business Day means a day that is not a Saturday, Sunday, or public holiday in New South Wales.

Capex Metering Service Charge means any charge to recover the capital cost of Type 5 and Type 6 meters that the AER approves or allows us to charge.

Confidential Information means:

- information provided by one party (**Disclosing Party**) to the other party (**Receiving Party**) under or in connection with the Rules, which is stated under the Rules, or by AEMO, the AER or the AEMC, to be confidential information; or
- information provided by the Disclosing Party to the Receiving Party, that is treated by the Disclosing Party as confidential or commercially sensitive,

except information that is public knowledge (otherwise than as a result of a breach of confidentiality by the Receiving Party).

Current Metering Coordinator means the *metering coordinator* that is recorded in MSATS master table for the *NMI*.

Continuing Services has the meaning given in clause 4.4.

Default Bank Rate means the *bank bill rate* (as in force from time to time) plus two percentage points per annum.

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

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

Exit Charge means a charge to recover costs incurred by us when another *metering coordinator* is appointed to the *metering installation*, to the extent that such charges are approved or allowed by the AER.

FRMP means the *financially responsible Market Participant*.

LNSP means the *Local Network Service Provider*.

Metering Asset means all equipment comprising the *metering installation* including the meter, equipment of a kind referred to in cl. 7.8.2(b) of the NER, or equipment which gives effect to or enhances the features of equipment of a kind referred to in cl. 7.8.2(b) of the NER.

Meter Churn Procedures has the meaning given in section 7.8.9 of the NER.

Metering Coordinator Services has the meaning given in clause 4.4.

Metering Service Charge means:

- a fee for providing any of the Services in respect of a *metering installation*, including any Exit Charge; and
- any Capex Metering Service Charges.

MSATS means the Market Settlement and Transfer Solution administered by AEMO or any replacement system.

NER or Rules means the National Electricity Rules as applicable in New South Wales.

Network Area means our distribution district determined in accordance with Division 2 of Part 7 of the *Electricity Supply Act 1995* (NSW).

GST means any goods and services tax or like tax imposed by the Commonwealth of Australia.

Personnel means a party's officers, employees, contractors (including subcontractors), and agents.

Prior Agreement means the Deemed Metering Co-ordinator Contract for Type 5, 6 & 7 Metering Installations formed between you and us on the terms and conditions published on our website 30 August 2017 and effective 1 December 2017.

Regulatory Requirement means the National Electricity Law, the NER, the National Energy Retail Law, the Electricity Supply Act 1995 (NSW) and all rules, regulations, instruments and plans made under or to comply with those Acts and any other statute, regulation, subordinate legislation, licence, authorisation, procedure, code or binding guideline which regulates the supply, sale or measurement of electricity in the NEM.

Retail Operations Contacts List means a contact list maintained by AEMO.

Services means the Metering Coordinator Services and the Continuing Services.

Staged Approach means any regulatory framework or scheme permitting Endeavour Energy to install Type 5 or Type 6 *metering installations* on or after 1 December 2017.

Type 5, Type 6 or Type 7 Metering Installation means in relation to a *metering installation*, the type of Metering Asset determined in accordance with the NER and recorded in MSATS.

3. TERMS OF THIS CONTRACT

3.1 When this contract applies

This contract applies to any person who is the FRMP at a *connection point* with a Type 5, Type 6 or Type 7 *metering installation* within our Network Area. It will apply where we provide Services to you in accordance with the NER and if you agreed for us to provide the Staged Approach.

This contract applies if, in respect of a Type 5 or 6 *metering installation* if:

- we were the LNSP that was the *responsible person* for a *connection point* that had Type 5 or 6 *metering installation* immediately before 1 December 2017;
- you are the FRMP at that *connection point*;
- we have not agreed with you to be appointed as *metering coordinator* for the *metering installation* under a different contract; and
- we have not ceased to be the *metering coordinator* in respect of that *connection point*.

Clause 7.6.4(f) of the NER provides that this contract applies in respect of a Type 7 *metering installation* if:

- we are the LNSP in respect of a *connection point* that has a Type 7 *metering installation* connected to, or proposed to be connected to, our *network*;
- you are the FRMP at that *connection point*; and
- we have not agreed with you to be appointed as *metering coordinator* for the *metering installation* under a different contract.

3.2 When this contract starts

This contract starts:

- in the case that you are a party to the Prior Agreement, 30 days following the publishing of this contract on our website; or
- otherwise, the date on which you become the FRMP for a *connection point* with a Type 5, 6 or 7 *metering installation* within our Network Area.

3.3 When this contract ends

Subject to clauses 3.4 and 3.5, this contract ends when:

- this contract is terminated in accordance with clause 8; or
- the parties enter into a new contract for the provision of all Metering Coordinator Services in relation to type 5, 6 and 7 metering installations.

3.4 **Novation or assignment of contract**

We may novate or assign our rights under this contract to another party provided we give you at least 30 days' notice.

3.5 **Survival of obligations after the contract ends**

Your obligations under clause 6.1 will survive the end of this contract until all payments due are paid.

3.6 **Changes to the contract**

- We may amend any provision of the contract, provided we give you at least 30 days' notice. If the amendment is to maintain consistency with any applicable regulatory obligations including our licence conditions or for minor edits then we will make the amendment without consultation. For other amendments we will consult with you and consider your feedback when it is provided by the due date.
- You may request changes to the contract by writing to the person nominated as our metering coordinator as per the Retail Operations Contacts List. While we will consider your feedback or request for a change, we may determine whether to make any changes to this contract in our sole discretion.
- To the extent that an amendment to the contract under this clause 3.6 effects the terms on which Services relating to Type 7 Metering Installations are performed, the parties agree that such an amendment constitutes a matter you may raise a dispute in regard to under clause 8.2 of the Rules.

4. **TERMS OF THE SERVICES**

4.1 **Metering Coordinator Services**

We will provide the Metering Coordinator Services for a Type 5, 6 or 7 *metering installation* to you during the period when:

- we are recorded in MSATS as the *metering coordinator* for the *metering installation*; and
- all of the conditions listed in clause 4.3 are met.

Once our appointment as the metering coordinator at a Type 5 or 6 metering installation ends any subsequent reappointment as the *metering coordinator*

for that *metering installation* under this contract is not allowed unless you obtain our express prior written agreement.

4.2 Continuing Services

We will provide the Continuing Services for a Type 5, 6 or 7 *metering installation* to you during the period when:

- we have ceased to be recorded in MSATS as the *metering coordinator* for the *metering installation*;
- all of the conditions listed in clause 4.3 are met;
- we have not ceased to provide Continuing Services in accordance with a notice given pursuant to clause 4.7; and
- either:
 - we are recorded as the *metering provider* and/or *metering data provider* in MSATS for the *metering installation*; or
 - if the *metering installation* is a Type 5 or 6 *metering installation*, our Metering Assets continue to be used by the *metering coordinator*, *metering provider* or *metering data provider* for *metering* at the *connection point*.

4.3 Conditions for provision of Services

The continuing conditions for the provision of Services at a *metering installation* are that:

- you are recorded in MSATS as the FRMP for the *metering installation*;
- we are recorded in MSATS as the LNSP for the *metering installation*;
- the *metering installation* type recorded in MSATS remains unchanged;
- the Services are classified by the AER as direct control services; and
- the *NMI* for the *metering installation* has not been made extinct in MSATS.

4.4 Services in scope

We will provide the following Services in respect of a *metering installation*:

- all services that a *metering coordinator* is required to provide under the NER at a Type 5, 6 or Type 7 *metering installation* (as applicable), on the terms set out in this contract (**Metering Coordinator Services**); and
- in the event that we are replaced as the *metering coordinator* in MSATS in respect of a *metering installation* but:

- we are still recorded as the *metering provider* and/or *metering data provider* in MSATS in respect of the *metering installation*, any services that the *metering provider* and/or *metering data provider* (as applicable) is required to provide for the *metering installation* pursuant to the NER; and/or
- in relation to a Type 5 or 6 *metering installation*, our Metering Assets continue to be used by the *metering coordinator*, *metering provider* or *metering data provider* for *metering* at the *connection point*, the provision of the Metering Assets for use for *metering*,

(Continuing Services)

We will provide the Services at each *metering installation* for the period determined in accordance with clauses 4.1, 4.2 and 4.3 of this contract.

4.5 Cessation of Appointment as Metering Coordinator

You may appoint another party as the *metering coordinator* for a relevant *connection point* by updating MSATS with the details of the new *metering coordinator* and at such time that this update is recorded in MSATS our appointment as the *metering coordinator* for that *connection point* will cease.

4.6 FRMP's obligations after cessation of metering coordinator appointment

In the event that our appointment as metering coordinator ceases at one or more connection points you must:

- pay any statement of Metering Service Charges issued under clause 6.1 after the date of our cessation as the metering coordinator; and
- pay any statement of Metering Service Charges issued under clause 6.1 in respect of any Continuing Services provided by us in respect of a metering installation; and
- unless otherwise provided in clause 5.10, take all practical steps to promptly remove the Metering Asset and dispose of it in accordance with your requirements under clause 6.4; and
- undertake your obligations in accordance with clause 6.10.

4.7 Cessation of Continuing Services

We may cease to provide Continuing Services to you at any *metering installation* if we first provide you with at least 90 days' written notice or our intention to do so, specifying the date of cessation of service, and the relevant metering installation (**Cessation Notice**).

Promptly on receiving a Cessation Notice, you must appoint an alternative *metering provider* and/or *metering data provider* (as applicable) and ensure that their registration in MSATS takes effect on the date we cease to provide Continuing Services at the *metering installation*.

5. ENDEAVOUR ENERGY'S RIGHTS AND OBLIGATIONS

5.1 Charges

We will determine the Metering Service Charges payable by you for Services in accordance with our network price list, consistent with relevant Regulatory Requirements, as published on our website from time to time.

We may change the way that we calculate Metering Service Charges at any time during the term of this contract, or determine new charges payable by you under this contract, provided:

- you are given at least 30 days' notice or any other notice period specified by the AER or the NER; and
- the changes are consistent with any distribution determination made by the AER or the framework and approach made by the AER.

5.2 Capex Metering Service Charges

The AER has made a distribution determination allowing us to charge retail customers a fee to recover the capital cost of any Type 5 or Type 6 *metering installation* installed prior to 1 July 2015, even after the retail customer's *metering installation* has been replaced with a Type 4 or Type 4a *metering installation*.

We may charge you Capex Metering Service Charges approved or allowed by the AER that you must pay on behalf of the retail customer at any *metering installations* for which you are the FRMP, including where we are not providing any Services for the *metering installation*.

5.3 Exit Charge

We may charge you Exit Charges to the extent that such charges are approved or allowed by the AER.

5.4 Statement of Metering Service Charges

We shall provide a statement of Metering Service Charges to you in a format that complies with our obligations under Regulatory Requirements, but otherwise on a monthly basis or at longer intervals as determined by us and we must consult with you prior to changing the format or frequency of the statement of Metering Service Charges.

The due date for payment of a statement of Metering Service Charges must be at least 10 Business Days from the date of issue.

We have the right to amend the statement of Metering Service Charges provided under this clause 5.4. We will provide the amendment in a subsequent statement of Metering Service Charges.

5.5 **Credit Support**

We have the right to request credit support from you. We will use the framework defined in Part B, Division 3 and Division 4 of Chapter 6B of the NER when requesting for credit support.

5.6 **Appointment of metering service providers**

We have the right to appoint a *metering data provider* and a *metering provider* for each *metering installation* where we are the Current Metering Coordinator. We will notify you of the appointment in accordance with the process for recording changes in MSATS.

5.7 **Shared use of *metering installation***

We may, in our discretion, permit any other third parties to use the *metering installation* and the Metering Asset for any purpose consistent with the Regulatory Requirements.

5.8 **Sub contract and delegation**

We may sub-contract or delegate to any person, including any *metering coordinator*, *metering provider* or *metering data provider*, to carry out all or any part of the Services without your prior consent.

We will be responsible and liable to you for a breach of this contract caused by our Personnel as if they were the acts and omissions of us.

5.9 **Ownership of Metering Assets**

Unless otherwise agreed, the Metering Assets for a Type 5 or Type 6 *metering installation* are owned by us, or our appointed *metering provider*. Replacing us as the *metering coordinator* in MSATS does not mean that you or your appointed *metering coordinator* or *metering provider* take ownership of the Metering Assets.

5.10 ***Current transformers***

You may remove or continue to use *current transformers* that belong to us after we cease to be recorded as the *metering coordinator* in MSATS in relation to the *metering installation*. If you remove the *current transformer* for a *metering installation*, you must safely dispose of it in accordance with all applicable environmental and health and safety laws.

Notwithstanding clauses 4.2, 4.4 and 5.9, if the *current transformer* for a *metering* installation continues to be used for *metering* after we are no longer recorded as the *metering coordinator* in MSATS:

- you must immediately appoint a *metering provider* and *metering data provider* other than us;
- you agree that you take ownership of, and responsibility for, the *current transformer*; and
- we will supply the date of the last passed test for *current transformers* for any *metering installations* if available.

5.11 Metering installation malfunction

While we are recorded as *metering coordinator* in MSATS in relation to a Type 5 or 6 *metering installation*, we will promptly notify you of any *metering installation malfunction*.

6. FINANCIALLY RESPONSIBLE MARKET PARTICIPANT'S RIGHTS AND OBLIGATIONS

6.1 Payment of statement of Metering Service Charges

Subject to clause 6.2, you must, by the due date for payment specified in a statement of Metering Service Charges provided under clause 5.4, pay the full amount specified in the statement of Metering Service Charges without set-off. Payment must be made into our nominated bank account.

Unless otherwise provided for in this contract, or as required by law, you must not set-off or withhold money from our related organisation or entity.

You must pay interest at the Default Bank Rate on any amount due to us that remains unpaid after the due date for payment, until the date on which that amount is paid in full or otherwise resolved in accordance with clause 6.2 or clause 7.11, with interest to accrue from the due date to the day immediately before the actual date of payment, calculated daily on the basis of a 365 day year.

6.2 Disputing statement of Metering Service Charges

If you dispute an amount (the **Disputed Amount**) set out in a statement of Metering Service Charges provided under clause 5.4, then you must give written notice of the Disputed Amount and the reasons for disputing payment in the format determined by us. We must consult with you prior to changing the format by which a Disputed Amount can be raised. You may raise a dispute regarding a Disputed Amount within 20 Business Days of the due date of the statement of Metering Service Charges.

If you fail to raise a dispute regarding the Disputed Amount by the due date of a statement of Metering Service Charges then the total amount in the statement of Metering Service Charges provided under clause 5.4 must be paid by the due date.

If you have given notice for a Disputed Amount prior to the due date of the statement of Metering Service Charges, then you must pay, by the due date, the amount that is the greater of:

- The undisputed component of the statement of Metering Service Charges; or
- 80% of the total amount due under the disputed statement of Metering Service Charges.

We must, within 10 Business Days of receipt of notice of a Disputed Amount from you, review the statement of Metering Service Charges and notify you of the outcome of our review.

If the Disputed Amount is not resolved by agreement between the parties within 10 Business Days of our receipt of your notice regarding the Disputed Amount, then you may issue a Notice of Dispute in accordance with the dispute resolution process under clause 7.11 of this contract.

The parties must continue to comply with their other obligations under this contract during the period of any dispute.

If the dispute under this clause 6.2 or clause 7.11 is resolved in your favour, we will issue the relevant portion of the Disputed Amount owing to you, including any interest paid on that amount under clause 6.1, as a credit. We must provide this credit on the subsequent Statement of Metering Charges for which it is reasonable for us to do so.

6.3 Credit Support

You must provide credit support when we request you to do so.

6.4 Obligations on removal of our Metering Assets

Notwithstanding clauses 4.2 and 4.4 of this contract dealing with the provision of Continuing Services, if you arranged for our Metering Assets to be removed then you must:

- Prior to removal of the Metering Assets:
 - promptly appoint a *metering coordinator* for the relevant *connection point* by updating the *metering coordinator* role in MSATS.

- After the removal of the Metering Assets:
 - ensure that, within two Business Days of the Metering Assets being removed, the *metering provider* and *metering data provider* are updated in MSATS; and
 - ensure the safe disposal of the Metering Assets in accordance with all applicable environmental and health and safety laws.

6.5 Agreement to sell or lease our Metering Assets

In the event that we agree to sell or lease to you our Metering Assets in respect of a *metering installation* to which this contract applies, you must ensure that a new *metering coordinator*, *metering provider* and *metering data provider* is recorded in MSATS with an effective start date that we have agreed to in writing.

6.6 Metering coordinator role in MSATS

You must not nominate us as the *metering coordinator* in MSATS for any *metering installation* in respect of which we are not required to act as *metering coordinator* under this contract.

In the event that we notify you of an error to any of the role of *metering coordinator* or, if we are not the *metering coordinator*, the roles of *metering provider* or *metering data provider* recorded in MSATS, you must initiate a change request to correct the relevant role in MSATS within 2 Business Days of receiving our notification.

6.7 Metering provider and metering data provider roles in MSATS

Other than as specified in clause 6.4, you acknowledge that we do not authorise you to make changes to the *metering provider* or *metering data provider* roles in MSATS while we are recorded in MSATS as the Current Metering Coordinator unless we have provided you with a letter of authority to do so.

6.8 Access to premises

You must use reasonable endeavours to arrange or coordinate with the *customer* safe, unobstructed and timely access for us to carry out the Services.

6.9 Non-interference with the metering installation

You must take all reasonable steps to ensure that your customers, your Personnel, and any other party engaged by you, must:

- not make changes to the *metering installation* while we are the Current Metering Coordinator unless we have provided you with a letter of authority to do so or the Meter Churn Procedures allows you to do so;
- comply with all obligations under all laws, including the NER;
- not interfere with the *metering installation* or the Metering Assets or let anyone else do so;
- take all reasonable precaution to protect the *metering installation* and the Metering Assets from damage;
- comply with any reasonable request by us intended to protect the *metering installation* and the Metering Assets;
- keep the *metering installation* and the Metering Assets secure against unauthorised access; and
- pay the cost of making good any damage caused to the Metering Assets except to the extent that the damage was caused prior to the commencement of this contract; or otherwise caused by Endeavour Energy or its Personnel.

6.10 Meter Churn

If a metering installation requires replacement or removal, including where we notify you of a metering installation malfunction under clause 5.11, you must:

- comply with your obligations under the Regulatory Requirements;
- appoint a new *metering coordinator* in respect of the relevant *connection point* by updating the *metering coordinator* role in MSATS;
- ensure that the relevant *metering installation* is removed or replaced as close to the date as possible that the appointment of the new *metering coordinator* is updated in MSATS;
- take all reasonable steps to ensure that the appointment of a new *metering provider* and *metering data provider* in respect of the relevant *connection point* is recorded in MSATS; and
- take all reasonable steps to ensure that, within two Business Days of completing the replacement of the *metering installation*, the new *metering provider* provides us with the relevant NOMW.

6.11 **B2B Communications**

The B2B e-hub is the primary communication channel you must use unless we agree otherwise or as otherwise required under the NER.

6.12 **Supply and accuracy of information**

You must, promptly on request, supply to us, such information relating to the metering installation and/or the retail customer as reasonably required in order to allow us to meet our obligations under the Regulatory Requirements or to perform the Services under this contract.

You must take all reasonable steps to ensure that the information is accurate and complete in all respects.

We will provide to you any information as required by the Regulatory Requirements.

7. **GENERAL PROVISIONS**

7.1 **Further Assurances**

Each party must take all steps, execute all documents and do everything reasonably required by the other party to give effect to any of the requirements contemplated by this contract.

7.2 **Conflict in documentation**

- (a) Subject to clause 7.2(b), to the extent that any conflict exists between this contract and any other documentation or correspondence forming part of any agreement then this contract shall be paramount and prevail.
- (b) If there is a conflict between the provisions of this contract and the obligations of a party under any law, (including the NER) the provisions of the relevant law shall prevail.

7.3 **No partnership**

This contract must not be interpreted as constituting:

- the relationship between the parties as a partnership, quasi-partnership, joint venture or other association under which one party may be liable for the acts or omissions of the other; or
- one party as the general agent or representative of the other party or having the authority to pledge or purport to pledge the credit of the other party.

7.4 **Severability**

If any part of this contract is held by any court or tribunal jurisdiction to be invalid or otherwise unenforceable, that provision, to the extent of that invalidity or unenforceability, shall be severed from this contract.

This contract shall continue to be effective, enforceable and valid notwithstanding such severance.

7.5 **Waiver**

Any waiver, or purported or implied waiver by either party of strict compliance with this contract shall not be deemed a waiver unless it is in writing and signed by the authorised officer of the relevant party and shall not prejudice the rights of the waiving party in respect of any breach of this contract to which the waiver does not specifically relate.

7.6 **Effect of force majeure event**

If, either party cannot meet an obligation under this contract because of an event outside the control of the party ('a force majeure event'):

- the obligation, other than an obligation to pay money, is suspended to the extent it is affected by the event for so long as the event continues; and
- the affected party must use their best endeavours to give the other notice of that fact including full particulars of the event, an estimate of its likely duration, the extent to which its obligations are affected and the steps taken to remove, overcome or minimise those effects.

7.7 **GST**

Amounts specified in our pricing list and other amounts payable under this contract may be stated to be exclusive or inclusive of GST.

Where an amount paid by you or by us under this contract is payment for a "taxable supply" as defined for GST purposes, to the extent permitted by law, that payment will be increased so that the cost of the GST payable on the taxable supply is passed on to the recipient of that taxable supply.

7.8 **Excluded loss**

Notwithstanding any other provision of this contract but only to the extent permitted by law, each party (**First Party**) shall not be liable to the other party (**Second Party**) in contract or in tort (including negligence):

- for any special, consequential or indirect loss, cost, damage, harm or injury (including, without limitation, economic loss, loss of market, loss of profit or loss of contract); or

- for any fine or penalty that may be imposed under or in respect of the NER, which the Second Party or any other person may suffer or incur as a result of or in connection with any act or omission of the First Party under or in relation to this contract or the provision of or failure to provide any of the services (including the supply of any goods) except to the extent that such fine or penalty is caused by the breach or default of the First Party,

(Excluded Loss).

The parties acknowledge and agree that any loss in relation to:

- injury to or death of any person;
- damage to any real or tangible property;
- wilful misconduct; or
- fraud of a party or its Personnel,

is not Excluded Loss subject within the meaning of this clause 7.8.

7.9 Limitation of liability

To the full extent permitted by law, our liability to you in contract or in tort (including in negligence) for any loss, cost, damage, liability, claim, expense, harm or injury which you or any other person may suffer or incur as a direct or indirect result of or in connection with any act or omission of us under or in relation to this contract or the provision of or failure to provide any of the services (including the supply of any goods) shall be limited at our sole discretion to:

- in the case where we have supplied (or failed to supply) goods:
 - replacement of the goods or supply of equivalent goods;
 - the repair of the goods;
 - the payment of the cost of replacing the goods or the acquiring of equivalent goods; or
 - the payment of the cost of having the goods repaired;
- in the case where we have supplied (or failed to supply) services:
 - the supply of the services again by us; or
 - the payment of the cost of having the services supplied again;
- to the extent our liability arises from personal injury or death, fraud, or wilful misconduct our liability is unlimited; and

- in all other cases, the total aggregate amount charged by us for Services provided under this contract in the 12 months immediately preceding the act or omission giving rise to the loss, cost, damage, expense, harm or injury which you or any other person suffered or incurred or where the relevant period is less than 12 months, a pro-rata amount based on the number of months out of 12 which have preceded the act or omission.

7.10 Acknowledgment by FRMP

To the full extent permitted by law:

- you acknowledge that you relied on your own skill and judgment in relation to the services supplied by us; and
- we shall be under no liability for any unsuitability for any purpose of the *metering installation* in respect of any knowledge which we may possess as to the purpose for which the *metering installation* were required by you.

7.11 Dispute resolution

If any dispute or complaint arises in relation to this contract, including the services to be provided, and the rights and obligations of the parties (Dispute) then either party may give written notice to the other of the Dispute (Dispute Notice). Where, under this clause 7.11, the parties are required to meet in order to resolve the Dispute, they must do so in good faith.

Within 14 days of receipt of a Dispute Notice the representatives of each party will meet to discuss the Dispute.

If the Dispute is not resolved within 14 days of the parties' representatives meeting, the parties will, within 14 days, have a meeting between the two chief executives of the parties.

If the Dispute is not resolved within 14 days of the parties' chief executives meeting, the parties will refer the Dispute for resolution in accordance with Chapter 8 of the NER.

8. TERMINATION

8.1 Termination of agreement

This contract terminates if:

- we have ceased to provide Metering Coordinator Services for any of the relevant *connection points*; and
- we have ceased to provide any Continuing Services under clause 4.4 at any of the relevant *connection points*; and

- you have paid all outstanding Metering Service Charges.

8.2 Confidential Information

Unless otherwise required by law (including the Regulatory Requirements), on termination of this contract, each party must, at the other party's option:

- return to the other party;
- destroy, and certify in writing to the other party the destruction of, all Confidential Information in its possession or control.

8.3 Obligations survive termination

Any rights or liabilities accrued under the terms of this contract survive termination.