



# TERMS AND CONDITIONS

## Market Retail Supply Contract

Power Club Limited (Powerclub) ACN 603 346 836 of Level 2, 696 Bourke Street, Melbourne 3000 ('We' or 'Us') and the customer named in the Application Form ('You') agree to enter a market contract (Contract) for the retail sale and supply of electricity on the following Terms and Conditions.

### 1. THE ELECTRICITY CONTRACT

- a) The Contract consists of the Application Form, these Terms and Conditions, the Disclosure Statement and any fact sheet, schedule or addendum that forms part of the Contract. The Electricity Laws also apply to the Contract.
- b) Under the Contract, we agree to sell electricity to you, and you agree to purchase electricity from us and accept the supply of electricity at your Premises on these Terms and Conditions.
- c) We agree to sell you electricity at the wholesale electricity market price, plus applicable distribution network charges and other pass-throughs.
- d) We also agree to arrange for your Distributor to connect your Premises to the distribution network
- e) You give your explicit informed consent to entering into the Contract. If we are not already financially responsible for supplying electricity to the Premises, you also give your explicit informed consent to the Premises being transferred to us as your electricity retailer in respect of the Premises.
- f) The Contract applies to you only while you are a Small Customer at your Premises. However, if you are not a Small Customer or you cease to be a Small Customer, and we offer you and you accept an offer under the Contract, then the Contract will apply to you, with any necessary changes being made.
- g) You must advise us immediately if you are aware that you are not, or you have ceased to be, a Small Customer.
- h) The Contract does not cover the physical connection of your Premises to the distribution network, including metering equipment and the maintenance of that connection and the supply of electricity to your Premises. This is the role of your Distributor under a deemed contract called a customer connection contract.

### 2. YOUR ACKNOWLEDGEMENTS

- a) Under the Contract, you will be buying electricity at the wholesale electricity market price. You acknowledge that the wholesale electricity market prices fluctuate throughout the day.
- b) You further acknowledge that the wholesale electricity market price can be volatile and may range from a low market floor price to a high market price cap. The market floor price is fixed by the National Electricity Rules and is currently minus \$1.00 per kWh and the market price cap for 2018-2019 is currently \$14.50 per kWh.
- c) We make no representation and give no guarantee as to likely movements in the wholesale electricity market price.



- d) You acknowledge and warrant that you have independently decided that entering into the Contract is appropriate for you, based on your own judgment and not relying on any advice you may have received from us.

### **3. ABOUT THE CONTRACT**

#### **3.1 When does the Contract start?**

The Contract starts on the date when all of these conditions have been met:

- a) You become a member of Powerclub;
- b) You agree to the terms over the phone or online;
- c) You pay the Powerclub Membership Fee;
- d) You enter into the Powerbank Agreement with us
- e) You enter into a direct debit agreement with us;
- f) You receive the welcome pack from us together with the other documents required by the Electricity Laws; and
- g) Your Premises are transferred to us as the electricity retailer in respect of the Premises.

#### **3.2 When does the Contract end?**

The Contract is an evergreen contract and continues for an indefinite period or until it is terminated by either or both parties pursuant to these Terms and Conditions.

### **4. ABOUT POWERCLUB**

#### **4.1. How do you become a Member of Powerclub?**

To become a Member of Powerclub you must:

- a) Complete and submit the Powerclub application for membership to us;
- b) Pay the Membership Fee to Powerclub;
- c) Be entered on the Powerclub members' register; and
- d) Hold a certificate of membership of Powerclub.

#### **4.2. What is the Membership Fee?**

- a) The Membership Fee is an annual fee which all Members must pay before they are eligible to purchase electricity from us under the Contract.
- b) The Membership Fee is not refundable, as its full value is used in the first month of the respective Member's period of membership and the remaining 11 months of membership are free
- c) The Membership Fee is set by us each year and we will send you a bill 30 days before it is due to be paid.
- d) If you have more than one Premises to which we supply electricity, you must pay a Membership Fee for each premises we supply electricity to.
- e) The Membership Fee is used by us towards payment of the Licence Fee under the IP Licence Agreement.



- f) We will send you a bill for payment of the Membership Fee. If you do not pay the bill by the pay-by date, we may terminate the Contract in accordance with the Electricity Laws.

**5. COOLING-OFF PERIOD**

- a) You have the right to withdraw from the Contract during the cooling-off period, which is, within 10 business days after you receive a copy of this Contract in accordance with the rules.
- b) You may exercise your right to withdraw from this Contract during the cooling-off period even if you have already agreed to or accepted this Contract.
- c) You may withdraw from this Contract during the cooling-off period by informing us orally or in writing of your intention to do so. When you inform us, this Contract will end, and you will not owe us anything.

**6. STARTING AND ENDING SUPPLY**

**6.1. Starting electricity supply**

We will start supplying electricity to your Premises under the Contract on the date when the electricity meter at your Premises is transferred to us (if you are not an existing customer of ours) and when the cooling-off period has expired, or if you are already an existing customer of ours, when the cooling-off period has expired.

**6.2. When does the Contract end?**

- a) If you notify us that you wish to end the Contract, the Contract will end on a date advised by us of which we will give you at least 5 but no more than 20 business days' notice
- b) If we both agree to a date to end the Contract, the Contract will end on the date that is agreed.
- c) If you start to buy electricity for the Premises from us or a different electricity retailer under a new customer retail contract, the Contract will end on the date the replacement retail contract starts.
- d) If a different customer starts to buy electricity for the Premises, the Contract will end on the date that customer's contract starts.
- e) If the Premises are disconnected and you have not met our requirements for reconnection, the Contract will end 10 business days from the date of disconnection.
- f) If you do not give us safe and unhindered access to the Premises to conduct a final meter reading (where relevant), this Contract will not end until we have issued you a final bill and you have paid us any outstanding amounts.
- g) Rights and obligations accrued before the end of this Contract continue despite the end of the Contract, including any obligations to pay amounts to us.
- h) Once the Contract is terminated, we may disconnect the Premises in accordance with the Electricity Laws.

We will continue to be the electricity retailer for the Premises until the Premises are either disconnected or transferred to another electricity retailer. If you wish to terminate the Contract, you must either transfer the Premises to another electricity retailer or have the Premises disconnected. You will remain liable to us for the charges for electricity supplied to the Sites until you do so.



### **6.3. Final meter read at your Premises**

- a) You must notify us if:
  - i. You want to switch to another electricity retailer; or
  - ii. You are vacating your Premises; or
  - iii. You require your electricity supply to be disconnected.
- b) After we receive your notification, we will carry out a final meter reading at your existing Premises. If you want the final meter reading to be carried out before the next scheduled meter reading, you can ask us to arrange a special meter reading (for which a fee may apply)
- c) You will be responsible for all tariffs and charges for electricity supply to your Premises until (and including) the date the final meter reading occurs.
- d) If a final meter reading is carried out and you continue to take supply from us at your existing Premises, you will continue to be liable for all charges for that electricity supply for as long as you take the supply.

### **6.4. Vacating your Premises**

If you are vacating your Premises, you must provide your forwarding address to us for your final bill.

### **6.5. Moving Premises**

- a) If you are moving from the Premises, you may ask us to transfer this Contract to your new Premises.
- b) If you ask us to transfer the Contract to new Premises, then we may offer to amend this Contract by transferring it to your new Premises and advise you the charges and other terms and conditions that apply to the Contract at your new Premises.
- c) If we make an offer to amend and transfer the Contract to new Premises, and you accept our offer, then the Contract will be amended according to our offer and we may charge you disconnection and connection fees.
- d) If you do not accept our offer, then this Contract will end.

## **7. OUR LIABILITY**

- a) You acknowledge that the quality and reliability of your electricity supply is subject to a variety of factors that are beyond our control as your retailer, including accidents, emergencies, weather conditions, vandalism, system demand, the technical limitations of the distribution network and the acts of other persons (such as your Distributor), including at the direction of a relevant authority.
- b) To the full extent permitted by law, we give no condition, warranty or undertaking, and we make no representation to you, about the condition or suitability of electricity, its quality or fitness for purpose or safety, other than those set out in the Contract.
- c) Unless we have acted in bad faith or negligently, the Electricity Laws exclude our liability for any loss or damage you may suffer as a result of the total or partial failure to supply energy to your Premises, which includes any loss or damage suffered as a result of the defective supply of electricity.



- d) The Distributor may disconnect, interrupt or reduce the supply of electricity to the Site. To the extent permitted by law, you agree to release us from any liability for such disconnection, interruption or reduction in the supply of electricity.

## **8. PRICE FOR ELECTRICITY AND OTHER SERVICES**

### **8.1. What are our charges?**

As a Member of Powerclub you will be entitled to purchase electricity at wholesale electricity market prices plus applicable pass throughs in accordance with the Contract.

### **8.2. Changes to charges**

- a) We may vary our Estimated Rate at any time to reflect changes in our estimate of the wholesale electricity price for the following twelve-month period.
- b) If we vary the Estimated Rate, we will include details in your next bill of how the variation will affect you.
- c) We may vary the charges to reflect the cost of any changes in distribution network charges, regulatory requirements and regulatory compliance requirements, environmental Schemes, metering charges, meter data charges or any other regulatory requirements.
- d) We may also vary the charges to reflect our increased costs arising out of complying with changes in the Electricity Laws.
- e) We may also vary the Operating Charges to reflect any increased costs of conducting the Powerclub business and/or providing our Customers with electricity at the wholesale electricity market price.

### **8.3. Variation of tariff due to change of use**

If a significant change in your electricity consumption makes you ineligible for the distribution network tariff you are on, we may transfer you to a new distribution network tariff and your rates are likely to change.

### **8.4. GST**

Charges are stated as GST exclusive. If any GST is or becomes payable in respect of a Taxable Supply of goods or services under the Agreement, the Charges for that Taxable Supply of goods or services will be increased by an amount equal to the GST payable. "GST" and "Taxable Supply" have the meanings set out in the New Tax System (Goods and Services Tax) Act 1999.

## **9. BILLING**

### **9.1. Sending bills**

We will send your bills and other communications in the following ways:

- a) Electronically to the email address nominated by you; or
- b) if we agree, to you at the postal address nominated by you (there will be a small administrative charge for paper bills); or
- c) To a person authorised by you to act on your behalf at the email address or postal address nominated by you.
- d) We must use best endeavours to obtain an actual meter reading at least once per annum.



## **9.2. Types of bills**

- a) Electricity bills we send to you will be calculated on:
  - i. The amount of electricity consumed at your Premises during the billing cycle (using information obtained from reading your meter or otherwise in accordance with the Electricity Laws); and
  - ii. The distribution network charges charged by your Distributor, regulatory and market charges, metering charges, government renewable energy schemes, energy efficiency scheme or carbon abatement schemes.
- b) Other bills we will send to you will be in respect of Membership Fees and Contribution Payments.
- c) The electricity bills we will send you, will show the total charges payable for the monthly Billing Period and will also provide a full breakdown showing how the charges are calculated or made up.

## **9.3. Estimating your electricity usage**

- a) We may estimate the amount of electricity consumed at your Premises if your meter cannot be read, if your metering data is not obtained (for example, if access to the meter is not given or the meter breaks down or is faulty), or if you otherwise consent.
- b) If we estimate the amount of electricity consumed at your Premises to calculate a bill, we must clearly state on the bill that it is based on an estimation, and when your meter is later read, we will adjust your bill for the difference between the estimate and the electricity actually used.
- c) If the later meter read shows that you have been undercharged, we will allow you to pay the undercharged amount in instalments, over the same period during which the meter was not read (if less than 12 months), or otherwise over 12 months.

## **10. PAYING YOUR BILLS**

### **10.1. What you must pay**

- a) You must pay to us the amount shown on each bill by the date for payment (the pay-by date) on the bill. The pay-by date will be no earlier than 13 business days from the date on which we issue your bill.
- b) We will accept payments from you for a bill in advance.

### **10.2. Issue of reminder notices**

If you have not paid your bill by the pay-by date, we will send you a reminder notice that payment is required. The reminder notice will give you a further due date for payment which will be not less than 6 business days after we issue the notice.

### **10.3. Difficulties in paying**

If you have difficulties paying your bill, you should contact us as soon as possible. We will provide you with information about our payment options. We will take steps to provide you our standard assistance and help you avoid further arrears:

- a) Making payments of an equal amount over a specified period;
- b) Options for making payments at different intervals;



- c) Extending by a specific period the pay-by date for a bill for at least one billing cycle in any 12-month period;
- d) Paying for energy use in advance.

Additional protections may be available to you under our Customer Hardship Policy. It is critical that you keep us informed and if your circumstances change, or you think you might have difficulties making your agreed payments, talk to us. A copy of our Customer Hardship Policy is available on our website.

## **11. METERS**

- a) You must allow safe and unhindered access to your Premises for the purposes of reading and maintaining the meters (where relevant).
- b) We will use our best endeavours to ensure that a meter reading is carried out as frequently as is needed to prepare your bills, consistently with the metering rules and in any event at least once every 12 months.
- c) If you disagree with the amount you have been charged, you can ask us to review your bill in accordance with our standard complaints and dispute resolution procedures.
- d) If you ask us to, we must arrange for a check of the meter reading or metering data or for a test of the meter in reviewing the bill. You will be liable for the cost of the check or test. However, if the meter or metering data proves to be faulty or incorrect, we must reimburse you for the amount paid.
- e) If your bill is being reviewed, you are still required to pay any other bills from us that are due for payment and the lesser of the portion of the bill that you do not dispute; or an amount equal to the average of your bills in the last 12 months, excluding the bill in dispute.

## **12. DISCONNECTION OF SUPPLY**

### **12.1. When can we arrange for disconnection?**

Subject to the requirements of the Electricity Laws, we may arrange for the disconnection of your Premises if you are a residential customer and do not pay your bill by the pay-by date and, you:

- a) Fail to comply with the terms of an agreed payment plan;
- b) Do not agree to an offer to pay the bill by instalments, or having agreed, you fail to comply with the instalment arrangement;
- c) You do not give access to your Premises to read a meter (where relevant) for 3 consecutive meter reads;
- d) We are otherwise entitled or required to do so under the Electricity Laws.

### **12.2. When we must not arrange disconnection**

- a) Your Premises may not be disconnected during the following times ('the Protected Period'):
  - i. On a business day before 8.00am or after 3.00pm
  - ii. On a Friday or the day before a public holiday
  - iii. On a weekend or a public holiday



- iv. On the days between 20 December and 31 December (both inclusive) in any year
  - v. If you are being disconnected under Clause 14.1.1, during an extreme weather event.
- b) Your Premises may be disconnected within the protected period:
- i. For reasons of health and safety
  - ii. In an emergency
  - iii. As directed by a relevant authority
  - iv. If you are in breach of clause 6.5 of your customer connection contract which deals with interference with energy equipment
  - v. If you request us to arrange disconnection within the protected period
  - vi. If your Premises contain a commercial business that only operates within the protected period and where access to the Premises is necessary to effect disconnection; or
  - vii. Where the Premises are not occupied.
- c) Your Premises may not be disconnected:
- i. Where the Premises are registered under life support equipment; or
  - ii. Where you have made a complaint, directly related to the reason for the proposed de-energisation to us, under the Powerclub's standard complaints and dispute resolution procedures, and the complaint remains unresolved; or
  - iii. Where you have made a complaint, directly related to the reason for the proposed de-energisation, to the energy ombudsman, and the complaint remains unresolved; or
  - iv. Where you are a residential customer who is receiving assistance anticipating or facing payment difficulties and is adhering to the terms of that assistance; or
  - v. Where you inform us, or we are otherwise aware, that you have formally applied for assistance to an organisation responsible for a rebate, concession or relief available under any government funded energy charge rebate, concession or relief schemes and a decision on the application has not been made; or
  - vi. On the ground that you have failed to pay an amount on a bill that relates to goods and services other than for the sale or energy or
  - vii. For non-payment of a bill where the total amount of your arrears is less than \$300 (inclusive of GST); or
  - viii. During a protected period.

### **13. RECONNECTION AFTER DISCONNECTION**

We must request your Distributor to reconnect your Premises if, within 10 business days of your Premises being disconnected:

- a) You ask us to arrange for reconnection of your Premises; and
- b) You rectify the matter that led to the disconnection; and





c) You pay any reconnection charge (if requested).

#### **14. FORCE MAJEURE**

If an event or circumstances occur that prevents us from carrying out our obligations under the Contract (a "Force Majeure Event"), our obligations under the Contract will be suspended to the extent to which they are affected by the Force Majeure Event for so long as the Force Majeure Event continues.

#### **15. RETAILER OF LAST RESORT EVENT**

If we are no longer entitled by law to sell electricity to you due to a Retailer of Last Resort (RoLR) event occurring in relation to us, we are required under the Electricity Laws to provide relevant information about you to the entity appointed as the relevant designated retailer for the RoLR event and the Contract will come to an end.

In the event we are being wound-up, Powerclub would pay back your Powerbank balance under the terms and conditions of your Powerbank agreement.

#### **16. SOLAR FEED-IN TARIFF**

If your Contract with us is for electricity and you have a solar photovoltaic (PV) system installed at your Supply Address, we may pay you a feed-in tariff for any electricity your system generates which is exported to the electricity grid. If we pay you a feed-in tariff, you'll see the amount of the feed-in tariff on your bill.

If we pay you a feed-in tariff or we are required to offer you a feed-in-tariff under the Regulatory Requirements, we may:

- a) vary the amount of the feed-in tariff by notice to you where we're not prevented from doing so by the Regulatory Requirements;
  - i. we will give you notice of any change to your feed-in tariff as soon as practicable, but no later than your next bill after the variation. The notice may be by a message on your bill (see clause 9);
  - ii. if the amount of your feed-in tariff changes during a Billing Period then we'll calculate your feed-in tariff for that period on a proportionate basis (see clause 9); and
  - iii. we'll review the feed-in tariff on your bill in accordance with clause 9. This means overpayment or over crediting of your feed-in tariff will be treated in the same way as an undercharge.
- b) stop providing you with the feed-in tariff if:
  - i. you stop being eligible for the feed-in tariff;
  - ii. we are entitled to do so under or because of a change in the Regulatory Requirements; or
  - iii. the relevant feed-in tariff scheme ends.

If any of these occur, then we'll stop providing you with the feed-in tariff from the date you stopped being eligible, the Regulatory Requirements changed or the scheme ended (as applicable). This may be before the date we give you notice.

- c) At the end of each year:
  - i. Evaluate the total FIT received by Powerclub members (FIT Received) compared to the total value of the export based on the wholesale rate at the time of export (Exported Value); and
  - ii. Determine if a Solar bonus can be paid



**17. BATTERY**

To ensure you are entitled to the lower energy rates of a Power Club plan which includes the Battery option, Powerclub will periodically review your usage profile to confirm there is no, or virtually no, electricity usage between 3.00pm to 8.30pm. During that period your battery or other generations systems are expected to provide the energy for your premises.

In the event that your Battery or other generation systems are failing to provide the electricity between 3.00pm and 8.30pm each day:

- It would place your Powerbank at risk; and
- Powerclub will transfer you to the equivalent plan that excludes the Battery option;
- The new plan will have rates more capable of supporting your Powerbank

**18. CREDIT CHECKS**

We may at any time after you enter into the Contract, conduct a credit check on your creditworthiness and you consent to us doing this

**19. APPLICABLE LAW**

The laws in force in the State or Territory in which your Premises are located govern this Contract.

**20. AMENDING THE CONTRACT**

a) We may amend the Contract from time to time to reflect any changes in the Electricity Laws which are amended or come into force after the Contract commences. We may also amend the Contract where necessary to achieve better outcomes and services to our Members.

b) If we amend the Contract, we will give you prior notice of the changes.

**21. EXPLANATION OF TERMS USED IN THESE TERMS AND CONDITIONS**

**'Billing Period'** means the monthly period for which for which we send you an electricity bill;

**'Business Day'** means a day other than a Saturday, a Sunday or a public holiday in the state or territory where your Premises are located;

**'Distributor'** means the entity that operates the system that connects your Premises to the distribution network

**'Electricity Laws'** means all applicable legislation, codes, regulations, orders, rules, guidelines and tariffs that directly or indirectly relate to the sale and supply of electricity to the Premises, including, the National Energy Retail Law, the National Energy Retail Rules, the Electricity Industry Act 2000 (Vic), the Victorian Energy Retail Code and any other applicable instrument that can be enforced by a regulatory authority.

**'Energy Ombudsman'** means, any of the following depending on which State or Territory where the Premises are located:

- Australian Capital Territory – the ACT Civil and Administrative Tribunal established under section 88 of the ACT Civil and Administrative Tribunal Act 2008 (ACT);
- New South Wales – Energy and Water Ombudsman (NSW) Limited ACN 079 718 915;



- Queensland – the energy ombudsman established under Part 2 of the Energy Ombudsman Act 2006 (Qld);
- South Australia – Energy Industry Ombudsman (SA) Limited ACN 089 791 604;
- Tasmania – the Ombudsman referred to in the Energy Ombudsman Act 1998 (Tas), being the Ombudsman within the meaning of the Ombudsman Act 1978 (Tas);
- Victoria – Energy and Water Ombudsman (Victoria) Limited ACN 070 516 175.

**'Environmental Scheme'** means any mandatory renewable energy scheme, emissions trading scheme, energy efficiency scheme, greenhouse gas abatement program, carbon dioxide trading scheme or tax administered by any government or authority;

**'IP Licence Agreement'** means the Intellectual Property Licence Agreement between Power Club Holdings Pty Ltd as Licensor and us as Licensee;

**'kWh'** means a thousand watts of electricity consumed for an hour;

**'Member'** means a member of Powerclub;

**'Membership Fee'** means an annual fee you pay to become and remain a member of Powerclub;

**'MWh'** means a thousand kilowatts of electricity consumed for an hour;

**'Operating Charges'** include (but are not limited to) Membership Fees, the margin we add to the wholesale electricity market price, the daily service charge, Contribution Payments and other charges that we may introduce that are consistent with the Electricity Laws.

**'retailer'** means a person that is authorised or licensed to sell energy to customers

**'Small Customer'** means a residential customer, or a customer who consumes or is expected to consume less than 40 MWh of electricity per annum at Premises in Victoria, less than 100 MWh per annum at Premises in NSW, the ACT or Queensland, less than 160 MWh per annum at Premises in South Australia and less than 150 MWh per annum at Premises in Tasmania.