

Use of System Agreement (BESS) template

for Victorian Transmission
Network Services for [Insert] BESS
at [Insert Name] Terminal Station

VicGrid

and

[Insert]

IMPORTANT NOTE: This document is a template only and may not be appropriate to a particular project. VicGrid will issue a tailored version when the technical requirements are nearing finalisation. This document is provided for information only and not for the purpose of commencing negotiations

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Details

Date

[Insert Date]

Parties

VicGrid

ABN 90 719 052 204

of Level 37, 2 Lonsdale Street, Melbourne, Victoria 3000

(VicGrid)

and

[Insert]

ABN [Insert]

of [Insert]

(Customer)

Maximum Capacity

[Insert] MW

Maximum Contract
Demand

(clause 4.4)

[Insert] MW

Minimum Amount

\$ [Insert]

Recitals

- A. Customer proposes to develop a battery energy storage system (**BESS**) and has requested connection to the Victorian Transmission Network at the Terminal Station.
- B. Customer proposes to register under the Rules as both:
 - i a Scheduled Generator in respect of all sent out generation from the BESS; and
 - ii a Market Customer for all electricity supplied through the national grid to the BESS (as both market load and scheduled load).
- C. A *contestable augmentation* to the Victorian Transmission Network needs to be constructed so as to effect the requested Connection.
- D. Once the Works are complete, TNSP will provide *transmission services* to VicGrid under the TNSP NSA and AusNet Services will provide *transmission services* to VicGrid under the Interface NSA, which are both network agreements required under section 50D of the National Electricity Law.
- E. VicGrid will purchase *transmission services* from TNSP and AusNet Services under the NSAs, in order to provide Customer with *shared transmission services* under this Agreement, which is the connection agreement VicGrid is required to enter into under section 50E of the NEL.
- F. In consideration of VicGrid's provision of the *shared transmission services* under this Agreement, Customer has agreed to pay VicGrid:
 - i all charges VicGrid incurs under the NSAs; and
 - ii transmission use of system charges (**TUoS**) (if applicable) in accordance with the Pricing Methodology.

Operative Provisions

1 Definitions and Interpretation

Defined Terms

1.1 Capitalised terms not otherwise defined in **clause 1.2** are defined in the PCCD are defined in the **Details** or the **Recitals**.

1.2 Unless the context otherwise requires:

Additional Charge means an amount calculated in accordance with **clause 8.19**.

Charges includes Additional Charges, the Transmission Underwriting Charge, TUoS and any other amounts VicGrid is entitled to charge the Customer in accordance with **clause 8**.

Financial Year means the 12 month period commencing on 1 July and ending on, and including, the following 30 June.

PCCD means a deed titled 'Project Constriction and Co-ordination Deed for [Insert Name] Terminal Station' and Interface ([Insert] BESS)' between VicGrid, TNSP, AusNet Services and Customer dated on or about the date of this Agreement.

Pricing Methodology means the Regulatory Instruments which govern VicGrid's pricing in relation to the Victorian Transmission Network from time to time, including VicGrid's Approved Pricing Methodology for Prescribed Shared Transmission Service.

Transmission Use of System Charge or **TUoS** means any charge or fee for or in relation to the services which VicGrid provides under this Agreement required or contemplated by or permitted under the Pricing Methodology.

Provisions incorporated from Project Construction and Co-ordination Deed

1.3 **Clause 1** of the PCCD is incorporated by reference and applies to this Agreement.

1.4 This Agreement must be read with the PCCD. The parties do not intend all provisions of the PCCD to apply to this Agreement and those provisions in the PCCD that are expressly stated to apply to the Related Agreements apply to this Agreement in accordance with their terms.

2 Term

2.1 **Clauses 1, 2, 10** and **13**, come into effect on the date this Agreement is executed by the last party to do so. The remaining provisions of this Agreement come into effect on the Date of Service Commencement.

2.2 This Agreement will continue for the Initial Term, and any extension effected by Customer in accordance with clause 37.5 of the PCCD, unless terminated earlier by either party in accordance with the PCCD.

3 Specified Services

Provision of Services

3.1 From the Date of Practical Completion, VicGrid must use reasonable endeavours to provide the Specified Services.

3.2 The parties acknowledge and agree that:

- (a) VicGrid's ability to provide the Specified Services is dependent on its receiving Network Services under the NSAs from TNSP and AusNet Services; and
- (b) although VicGrid will monitor the progress of the Works, the date on which "Practical Completion" occurs is outside VicGrid's control, and the Date of Practical Completion may be later than expected.

Acknowledgment of Interdependencies

3.3 Customer acknowledges and agrees that:

- (a) the supply or acceptance of electricity through the Point of Supply is dependent on the provision of *connection services*; and
- (b) VicGrid's obligations under this Agreement do not extend to providing or procuring *connection services*.

Augmentation

3.4 If Customer becomes aware of a proposal to Connect another *facility* to the Victorian Transmission Network at or through the Point of Supply, Customer must:

- (a) promptly notify VicGrid; and
- (b) provide VicGrid with such information as VicGrid may reasonably request to enable VicGrid to determine whether it is necessary or desirable to modify the Specified Services or similar services provided by VicGrid to persons other than Customer.

3.5 If VicGrid notifies Customer that VicGrid has determined that it is necessary or desirable to modify the Specified Services as a result of a proposal or request referred to in **clause 3.4**, Customer must negotiate in good faith with VicGrid appropriate amendments to this Agreement.

3.6 If Customer proposes to augment the *connection services* in respect of the Point of Supply, Customer must promptly notify VicGrid and provide VicGrid with such information as VicGrid may reasonably request for VicGrid to determine whether it is necessary or desirable to augment the Specified Services.

Shared Network Capability

3.7 VicGrid has no obligation to *augment* the Victorian Transmission Network to provide the Specified Services, unless it is in accordance with:

- (a) VicGrid's obligations under the Rules, and the *regulatory investment test for transmission*; or
- (b) an agreement entered into between VicGrid and any *Network User* requiring VicGrid to *augment* the Victorian Transmission Network (usually at the *Network User's* cost).

3.8 VicGrid has no obligation to supply the Specified Services if either or both of the following occur:

- (a) VicGrid directs Customer to cease or curtail use of the Victorian Transmission Network for any reason whatsoever, provided VicGrid is acting, in accordance with, and in a manner that is consistent with, its powers and obligations under any Regulatory Instrument; or
- (b) an emergency direction is given to either or both of VicGrid and Customer under any Regulatory Instrument that involves ceasing or curtailing use of the Victorian Transmission Network.

If the directions described in **paragraphs (a) or (b)** involve curtailing use of the Victorian Transmission Network, VicGrid's obligation to supply the Specified Services will continue to apply, but will be reduced or modified to the extent that is reasonably required to reflect that curtailed use.

3.9 Customer acknowledges that the Specified Services may be unavailable from time to time during:

- (a) periods of maintenance or construction undertaken on the Victorian Transmission Network;
- (b) the undertaking of works to Connect other *facilities* to the Victorian Transmission Network;
- (c) an Event of Force Majeure;
- (d) the occurrence of a non-credible contingency event; or
- (e) constraints arising from the operation of the *NEM* or under a Regulatory Instrument.

Cease or Curtail use of the Victorian Transmission Network

3.10 Without limiting the NEL or the Rules, VicGrid may, either verbally or in writing, direct Customer to cease or curtail use of the Victorian Transmission Network:

- (a) in accordance with VicGrid's then current policies or procedures for managing the competing use of a *constrained transmission line* in the Victorian Transmission Network or Victorian Transmission Network Connection Augmentation Guidelines; or
 - (b) if VicGrid is reasonably satisfied that this is necessary to enable VicGrid to comply with VicGrid's responsibilities under the Rules with respect to *power system security*,
- and Customer must comply with the direction.

Operation of a Dynamic Interconnected System

3.11 Customer acknowledges that:

- (a) the BESS, Connection Assets, Interface, Terminal Station and the Victorian Transmission Network are each an element of an interconnected electrical system to which the *facilities* of many other persons are Connected;
- (b) the behaviour of the interconnected electrical system is dynamic and will vary from moment to moment and depends on the interaction of all *plant* and equipment Connected to it;
- (c) other persons whose *plant* and equipment is Connected to the Victorian Transmission Network can impact the operation, performance and outcomes of the Victorian Transmission Network and the Specified Services;
- (d) the Victorian Transmission Network is subject to an "open access regime" established by the NEL and the Rules and, accordingly, VicGrid must provide *shared transmission services* to other persons in accordance with that regime notwithstanding the impact that may have on the provision of the Specified Services by VicGrid to Customer under this Agreement; and
- (e) no guarantee or warranty, either express or implied, is given by VicGrid to Customer that the Victorian Transmission Network will be able to provide the Specified Services at all times, or even at all.

Non-Firm Access

3.12 The Specified Services provided by VicGrid under this Agreement are provided on a reasonable endeavours basis, and this does not:

- (a) entitle Customer to any compensation of any kind from VicGrid if the Specified Services are unavailable, or are diminished, limited or restricted, for any period of time for any reasons other than as a direct result of Wilful Breach by VicGrid;
- (b) subject to VicGrid's obligation under the Rules, diminish, limit, restrict or affect in any way VicGrid's rights, powers and obligations to permit third parties to access the Victorian Transmission Network in accordance with the Rules, even if to do so may diminish, limit, restrict, reduce or otherwise affect the level of Specified Services available to Customer under this Agreement; or
- (c) restrict, limit or prevent VicGrid from fulfilling any obligation under a Regulatory Instrument or a contract that has been entered into by VicGrid in accordance with the Rules to *augment* or alter the configuration of the Victorian Transmission Network, even if to do so may diminish, limit, restrict, reduce or otherwise affect the level of Specified Services available to Customer under this Agreement.

3.13 Without limiting **clause 3.12**, VicGrid has no liability under this Agreement in relation to any of the following thresholds being exceeded:

- (a) levels of non-repetitive instantaneous voltage changes set out in **Table S1.3** or **S1.4** of **Schedule 1**;
- (b) harmonic levels set out in **Table S1.6** of **Schedule 1**; or
- (c) average levels of negative sequence voltage at the Point of Supply set out in **Table S1.7** of **Schedule 1**,

to the extent the relevant threshold is exceeded due to:

- (d) VicGrid's acts or omissions in the performance or exercise, or purported performance or exercise, of its functions under the Rules relating to the market or power system security or the acts or omissions of

a *System Operator*, any other *Transmission Network Service Provider* or *Network Users* who fail to comply with their obligations under the Rules or a *connection agreement*; or

- (e) transient events such as faults, single pole interruption, line switching, transformer energisation, capacitor bank switching or reactor switching within the Victorian Transmission Network.

- 3.14 If there is a change in the Rules that requires *Transmission Network Service Providers* to have regard to the impact on the level of service to existing *Network Users* when considering subsequent *connections* to a *transmission network* in a manner that differs materially from the approach under the Rules as at the date of this Agreement, the parties will enter into good faith negotiations with a view to making appropriate amendments to **clause 3.12** to reflect the change in the Rules, however, a failure to reach agreement will not be a breach of this **clause 3.14** or be a Dispute.
- 3.15 Subject to **clauses 3.2(a)** and **3.3(a)**, VicGrid must use reasonable endeavours to minimise the extent and duration of any limitation on the provision of the Specified Services under **clause 3**.

4 Customer's Obligations

Battery

- 4.1 Customer must ensure that from the Date of Practical Completion until the end of the Term, the BESS:
- (a) complies with the requirements set out in **Schedule 2**;
 - (b) complies with and is operated in accordance with *good electricity industry practice* and all relevant Laws and *Australian Standards*;
 - (c) is operated so as not to affect adversely the operations of VicGrid or *shared transmission services* provided by VicGrid to other *Network Users* of the Victorian Transmission Network; and
 - (d) remains fit for its intended purpose.
- 4.2 Customer must ensure that the BESS is not Connected to any *facility* other than the Point of Supply without VicGrid's consent.

Fortran Model

- 4.3 VicGrid acknowledges that it has been provided with a model of the BESS in Fortran in accordance with clause S5.2.4 of the Rules.

Maximum Contract Demand

- 4.4 Customer must not permit the load at the Point of Supply to exceed the Maximum Contract Demand without VicGrid's prior written consent.
- 4.5 Customer may propose an amendment to the Maximum Contract Demand by notice to VicGrid, which must be received by VicGrid by no later than 1 March in the Financial Year preceding that in which the proposal is to take effect specifying:
- (a) the proposed alteration to the Maximum Contract Demand;
 - (b) the Financial Year(s) to which the proposed alteration will apply; and
 - (c) Customer's reasons for the proposed amendment, (**Request**).
- 4.6 VicGrid must respond to the Request within 30 Business Days stating whether VicGrid accepts the proposed amendment. VicGrid must act reasonably when determining whether it will accept a proposed amendment in a Request.
- 4.7 If VicGrid:
- (a) accepts the proposed amendment in a Request, the proposed amendment will become effective for the relevant Financial Year(s) stipulated in the Request; or
 - (b) rejects a Request, or does not respond to a Request within 30 Business Days, Customer may refer the matter for resolution in accordance with the Dispute Resolution Procedure and any change to a

Maximum Contract Demand will not be effective until the commencement of the Financial Year following the conclusion of the Dispute Resolution Procedure.

Metering Data

- 4.8 Customer must provide VicGrid with full and unrestricted access to its *metering data* in a form and manner that allows VicGrid to calculate Transmission Use of System Charges.

Customer Control Equipment

- 4.9 If VicGrid is reasonably satisfied that specified control equipment is, or in the foreseeable future will be, reasonably required to assist VicGrid to:
- (a) facilitate the management of the competing use by *intermittent generating units, semi-scheduled generating units or non-scheduled generating units* connected to a *constrained transmission line* in the Victorian Transmission Network in accordance with the requirements of the Rules; or
 - (b) perform its functions or responsibilities or exercise its powers with respect to *power system security* under any Regulatory Instrument,

VicGrid may direct Customer to install the specified *control system* that meets the reasonable technical specifications advised by VicGrid at Customer's expense. Customer must comply with a direction under this clause.

Secondary Equipment

- 4.10 Customer must make, or procure AusNet Services to make, any modifications to, or adjustment to the settings of, secondary equipment forming part of the Connection Assets in relation to the Point of Supply reasonably requested by VicGrid from time to time in accordance with *good electricity industry practice*.

Warranty

- 4.11 Customer represents and warrants to VicGrid that, to the best of its information and belief (after having made due enquiries), the data in **Schedule 5** is accurate.

5 Quality and Performance Management

Non-Compliance with Quality Requirement

- 5.1 If at any time VicGrid believes (acting reasonably) that:
- (a) Customer is not complying with an obligation under **Schedule 2** (including as a result of an Event of Force Majeure) (**Non-Compliance**); and
 - (b) either:
 - (i) complaints are received from *Network Users* stating that they are being adversely affected by the Non-Compliance and VicGrid confirms that the *Network Users* are in fact being adversely affected by the Non-Compliance; or
 - (ii) any *facility* or other equipment is being materially adversely affected by the Non- Compliance,

VicGrid may, after consulting with Customer, direct Customer to take such steps as VicGrid believes are reasonably necessary to eliminate or minimise the adverse effect of the Non-Compliance. These steps may include constraining or limiting the operation of *plant*, varying the operation of the BESS, installing appropriate equipment or limiting the hours of operation of any relevant equipment. When determining the steps to be implemented in these circumstances VicGrid will endeavour to minimise the extent and duration of any constraint or limitation as is reasonably necessary to eliminate or minimise the adverse effect of the Non-Compliance.

- 5.2 Where a Non-Compliance occurs as a result of an Event of Force Majeure, VicGrid must take the effect of the Event of Force Majeure into account when formulating its direction.
- 5.3 Subject to **clause 5.4**, Customer must promptly comply with any direction given by VicGrid under **clause**

- 5.1** at Customer's cost. If Customer fails to do so, then VicGrid may *disconnect* the Point of Supply.
- 5.4 If Customer disputes VicGrid's view or direction, the parties must promptly meet to resolve their difference. If the Dispute is not resolved within 5 Business Days after VicGrid gives the direction under **clause 5.1**, either party may refer the Dispute for resolution in accordance with the Dispute Resolution Procedure.
- 5.5 If Customer does not give a notice under **clause 5.4** within 5 Business Days after receiving VicGrid's direction under **clause 5.1**, Customer will be taken to not dispute the direction.
- 5.6 Where:
- (a) Customer does not dispute a direction given by VicGrid under **clause 5.1**; or
 - (b) Customer disputes the direction given by VicGrid under **clause 5.1** and it is determined in accordance with the Dispute Resolution Procedure that the direction was appropriate,
- Customer must promptly advise VicGrid of the remedial action it proposes to take to comply with that direction and the proposed timetable for implementing that action.
- 5.7 VicGrid may notify Customer that it disagrees with the proposed remedial action or the proposed timetable, whereupon the parties must meet promptly to resolve their difference. If the Dispute is not resolved within 5 Business Days after VicGrid gives the notice under this **clause 5.7**, either party may refer the Dispute for resolution in accordance with the Dispute Resolution Procedure.
- 5.8 If VicGrid does not give a notice under **clause 5.7** within 20 Business Days after receiving Customer's advice under **clause 5.5**, VicGrid will be taken to have agreed to the proposed remedial action and timetable set out in the notice.
- 5.9 After the parties agree the remedial action and timetable, or the remedial action and timetable is determined in accordance with the Dispute Resolution Procedure, Customer must (at its cost):
- (a) diligently take the remedial action in accordance with the agreed or determined timetable;
 - (b) report to VicGrid at least weekly on the progress of the remedial action; and
 - (c) after completing the remedial action, submit such evidence to VicGrid as VicGrid reasonably requires to demonstrate that:
 - (i) the relevant obligation will be complied with in the future; or
 - (ii) the relevant *Network User* or equipment will no longer be adversely affected by Customer's Non-Compliance,
- (as applicable)

6 Co-operation with VicGrid

Information

- 6.1 If Customer becomes aware of anything concerning the operation of the BESS that evidences any irregularity with the safety or security of the Victorian Transmission Network, Customer must notify TOC and provide details as to the information or issues to TOC.
- 6.2 Notification by Customer to TOC under **clause 6.1** can be either verbal or written.
- 6.3 As soon as practicable, after any request made by VicGrid, Customer must supply such information to VicGrid as VicGrid may reasonably require to perform its functions and exercise its powers under any Regulatory Instrument.

7 Records

- 7.1 Customer must maintain, or procure that TNSP and AusNet Services each maintain, the records, data and other information detailed in **Schedule 5** for a period of 7 years and must allow, or procure that TNSP and AusNet Services allow, VicGrid access to those records during normal business hours.

8 Charges

Transmission Underwriting Charge

- 8.1 Customer must pay to VicGrid, in accordance with **clause 9**, the Transmission Underwriting Charge for the provision of the Specified Services regardless of whether the Specified Services are provided and notwithstanding suspension or breach by VicGrid of any of its obligations under this Agreement.

Alteration to the Transmission Underwriting Charge

- 8.2 The Transmission Underwriting Charge may be varied in accordance with the PCCD.
- 8.3 Notwithstanding any other provision of this Agreement, the Transmission Underwriting Charge will not be increased as a result of a New Proponent Change Event.

Other Charges

- 8.4 Subject to **clause 8.6**, Customer must reimburse VicGrid for the reasonable costs incurred by VicGrid in managing, administering or performing the NSAs except to the extent that such costs:
- (a) arise because of VicGrid's Wilful Breach; or
 - (b) are included within the applicable "Schedule of Fees and Charges for Generator Connections" referred to in **clause 8.5**.
- 8.5 Subject to **clause 8.6**, VicGrid may charge Customer for any work VicGrid is required to do in the performance of the VicGrid Functions after the Date of Practical Completion in relation to this Agreement or the NSA (such as the provision of Protection and Control Requirements settings and contract administration tasks) in accordance with the applicable "Schedule of Fees and Charges for Generator Connections" (available on VicGrid's website), except to the extent that any of those functions are undertaken by AusNet Services at its own cost, under or in connection with its obligations under the NSAs.
- 8.6 VicGrid must advise Customer before incurring a cost or performing work for which VicGrid requires Customer to pay under **clause 8.4** or 8.5. If requested by Customer, VicGrid must provide a budget for such amounts and report expenditure against the budget on a monthly basis.

Correspondence of Payments to AusNet or TNSP

- 8.7 The parties agree that, given VicGrid is entering into the NSAs solely at the request of Customer, Customer's payment obligations to VicGrid under this Agreement must at least correspond to VicGrid's payment obligations under the NSAs, so that VicGrid is not left "out-of-pocket" except to the extent that the relevant payment obligation of VicGrid:
- (a) relates to a failure to pay an amount under an NSA where Customer has complied with its obligations under **clause 9.3** in relation to the corresponding amount;
 - (b) arises because of VicGrid's Wilful Breach of this Agreement or an NSA; or
 - (c) corresponds to a payment obligation of a New Proponent under a use of system agreement under which VicGrid provides services to the New Proponent, including an adjustment to the relevant transmission charge.

Transmission Use of System Charges

- 8.8 If at any time the Pricing Methodology requires, contemplates or permits VicGrid to charge Customer a Transmission Use of System Charge, then VicGrid may charge Customer that charge in accordance with the Pricing Methodology.
- 8.9 The parties acknowledge that, as at the date of this Agreement, VicGrid is providing *negotiated transmission services* and, accordingly, the Transmission Use of System Charges are zero.
- 8.10 If at any time after the date of this Agreement, VicGrid proposes to charge Customer a Transmission Use of System Charge as contemplated under **clause 8.8**, VicGrid must first notify Customer of:
- (a) the charge (giving reasonable details of it); and

- (b) the date on which the charge takes effect (which may be earlier than the date of the notice if permitted under the Pricing Methodology).

8.11 If VicGrid gives a notice under **clause 8.10**, Customer must pay the charge specified in the notice from the date on which the charge takes effect, as specified in the notice.

Charges payable irrespective

8.12 Customer must pay to VicGrid the Transmission Use of System Charges in accordance with **clause 9**, regardless of whether the Specified Services (or the relevant part of the Specified Services) are provided and notwithstanding suspension or breach by VicGrid of any of its obligations under this Agreement.

Alteration of Transmission Use of System Charges

8.13 The Transmission Use of System Charges may be varied in accordance with the Pricing Methodology.

8.14 If VicGrid proposes to vary the Transmission Use of System Charges in accordance with the Pricing Methodology, VicGrid must, as soon as reasonably practicable, give notice to Customer specifying the:

- (a) the new charge (giving reasonable details of it); and
- (b) the date on which the new charge takes effect.

8.15 If Customer receives a notice from VicGrid under **clause 8.14**, Customer agrees to pay any new or varied Transmission Use of System Charges from the date on which the new or varied Transmission Use of System Charges take effect, as specified in the notice.

Amounts withheld for Minor Outstanding Items

8.16 Despite Customer's obligation to commence payment of the Transmission Underwriting Charge under clause 8.1:

- (a) Customer is entitled to withhold payment of that amount of the Transmission Underwriting Charge that corresponds to the amount of the Transmission Charge withheld by VicGrid under clause 25.2 of the PCCD for the period during which VicGrid is entitled to withhold that amount;
- (b) Customer must pay VicGrid the accrued but withheld Transmission Underwriting Charges once VicGrid is no longer entitled to withhold any amount under clause 25.2 of the PCCD; and
- (c) Customer is not liable to VicGrid for interest or other costs in relation to payments withheld under **clause 8.16(a)** and is not a trustee in respect of any such withheld payments.

Additional Charges

8.17 Customer must pay an Additional Charge if, on a *day*, the Metered Demand exceeds the Maximum Contract Demand (**Excess Demand**).

8.18 For the purposes of **clause 8.17**, Metered Demand means the *metered demand* measured at the Point of Supply as an average demand (in MW) over a metered 30-minute period (rounded to two decimal places).

8.19 The Additional Charge is the highest of the following:

- (a) $ED * 5 * \text{TUoS Locational Price}$; or
- (b) $ED * 5 * (\text{CSP} + \text{TUoS Non-Locational Price})$,

where:

ED is the Excess Demand (in MW);

TUoS Locational Price is the price for the locational component of the Transmission Use of System Charges applicable on the *day* of the relevant Excess Demand;

CSP is the price for the common service component of the Transmission Use of System Charges applicable on the *day* of the relevant Excess Demand;

TUoS Non-Locational Price is the price for the non-locational component of the Transmission Use of System Charges applicable on the *day* of the relevant Excess Demand,

and as each of these terms is further described in the Pricing Methodology.

- 8.20 VicGrid will include any Additional Charges in the next invoice issued Customer in accordance with this Agreement.
- 8.21 Customer acknowledges and agrees that, if the Metered Demand exceeds the Maximum Contract Demand under this Agreement:
- (a) VicGrid and other *Network Users* will suffer loss and the liquidated damages represented by the Additional Charge is to compensate them for that loss;
 - (b) the liquidated damages represented by the Additional Charge are intended to, and do, represent a reasonable, genuine and good faith pre-estimate of the anticipated or actual loss and damage that VicGrid and other *Network Users* will suffer and are not a penalty;
 - (c) it expressly waives the right to the extent permissible to claim or argue, and warrants to VicGrid that it will not claim or argue, that the Additional Charge is not a genuine pre-estimate of loss or damage; and
 - (d) if it is determined by a court of competent jurisdiction or in accordance with the Dispute Resolution Procedure that Customer's liability to pay the Additional Charge is, is deemed to be or becomes void, voidable or unenforceable in any way so as to disentitle VicGrid from claiming the Additional Charge under this Agreement or any part of it when due, then VicGrid is entitled to claim against Customer, and Customer agrees to pay to VicGrid, damages at law as an alternative to the Additional Charge, which damages are not limited by the provisions of the PCCD but which are limited to the amount of the Additional Charge calculated under **clause 8.19**.

Payments under the NSAs

- 8.22 Provided Customer has complied with **clause 9**, VicGrid must pay:
- (a) TNSP in accordance with the TNSP NSA; and
 - (b) AusNet Services in accordance with the Interface NSA.

Early Termination

- 8.23 Customer acknowledges and agrees that if this Agreement is terminated for any reason prior to the expiration of the Term it has no Claim against VicGrid for reimbursement of the Transmission Underwriting Charges (or any part thereof) or any other amount paid to VicGrid under this Agreement.

9 Payments

Invoicing

- 9.1 VicGrid must render an invoice for the Charges on the first Business Day of each month following the Date of Practical Completion for Charges payable by the Customer and amounts Customer is required to reimburse VicGrid under this Agreement.
- 9.2 VicGrid must provide reasonably sufficient information in the invoices to allow Customer to assess the accuracy of the payments, charges and reimbursement amounts specified in each invoice.

Payment Obligation

- 9.3 Customer must pay VicGrid the amount specified in each invoice within 10 Business Days of the day on which the invoice is rendered by VicGrid unless it does not contain the information required under **clause 9.2** or there is a manifest error in the invoice or that information.
- 9.4 **9.2** or there is a manifest error in the invoice or that information.
- 9.5 Payment must be made via Austraclear to VicGrid's nominated account on the due date. A party may change its Austraclear account details by notice to the other party.
- 9.6 If Customer reasonably believes that there is an error in respect of an invoice rendered under **clause 9.1**, it must promptly notify VicGrid. If VicGrid does not accept that an error has occurred, Customer may take action to resolve the dispute in accordance with **clause 9.6**.

Disputes regarding Invoices

- 9.7 Any Dispute as to an invoice rendered under **clause 9.1** is to be resolved in accordance the Dispute Resolution Procedure. Despite the existence of a Dispute, the parties must continue to perform their obligations under this Agreement, including the making of payments as required under this Agreement (including under the disputed invoice).
- 9.8 If, following the resolution of a Dispute a payment is to be made by either party, then that payment may be set off against an invoice or may be charged in an invoice, as appropriate.

Set Off

- 9.9 Either party may set off any liquidated debts owed by the other party against liquidated debts owed by it to the other party in connection with any Related Agreement.

Interest

- 9.10 If Customer fails to make a payment by the due date for payment, it must pay interest to VicGrid on the amount of the outstanding payment at the Bank Bill Rate plus 2% for each day from the due date for payment until the amount plus any accrued interest on that amount (calculated on actual days elapsed and a 365-day year) is paid in full.

10 Security for Payment

Definitions

- 10.1 In this **clause 10**:

Bank Guarantee means a guarantee having the following attributes:

- (a) it is issued by:
 - (i) one of the following banks provided that the relevant bank has a Credit Rating that is at least equal to the Reference Credit Rating:
 - (A) Australia and New Zealand Banking Group Limited;
 - (B) Commonwealth Bank of Australia;
 - (C) National Australia Bank; or
 - (D) Westpac Banking Corporation; or
 - (ii) any other bank that:
 - (A) is incorporated in Australia and is Lawfully carrying on banking business in Australia and authorised by the Australian Prudential Regulation Authority (**APRA**) under section 9 of the Banking Act 1959 to carry on that business; and
 - (B) has a Credit Rating that is at least equal to the Reference Credit Rating; or
 - (iii) any other bank Lawfully carrying on banking business in Australia and authorised by APRA approved by VicGrid;
- (b) it provides for presentation and payment at a branch of the issuing bank in the City of Melbourne;
- (c) it is governed by the Law of Victoria;
- (d) it provides an irrevocable and unconditional commitment on the part of the bank to pay without further enquiry the amount demanded by VicGrid up to the face value of the Bank Guarantee or, if a payment has previously been demanded and paid under the Bank Guarantee, that face value less the total payments previously made;
- (e) it is valid for a continuous period of not less than 12 months;
- (f) it is in the form set out in **Attachment 1** or as otherwise prescribed by VicGrid for the purposes of the prudential requirements under the Rules (or, if there is no such form at any time, the form prescribed by VicGrid for this purpose (acting reasonably)); and

- (g) it is executed by the issuing bank in accordance with section 127(1) of the Corporations Act, by a person with a current power of attorney from the issuing bank, or in another way acceptable to VicGrid. If it is executed in another way, VicGrid may require that the validity of the execution be confirmed in a way reasonably acceptable to VicGrid.

Credit Rating means the short term rating in respect of an entity assigned by the Ratings Agency.

Ratings Agency means Standard & Poor's Financial Services LLC or one of its local subsidiaries operating as Standard & Poor's or, if no such entity exists or continues to issue credit ratings, any other person recognised in global financial markets as a major ratings agency, proposed by Customer and agreed by VicGrid, such agreement not to be unreasonably withheld.

Reference Credit Rating means a short term Credit Rating from the Ratings Agency of at least 'A-1'.

10.2 If, after the date of this Agreement:

- (a) the Ratings Agency changes the description or nomenclature of a Credit Rating, or the manner in which its Credit Ratings are calculated or derived; or
- (b) the Ratings Agency is a Ratings Agency other than Standard & Poor's Financial Services LLC or Standard & Poor's (Australia),

the Reference Credit Rating will be the Credit Rating issued by the Ratings Agency that most closely, in the reasonable opinion of VicGrid, corresponds to the relevant Credit Ratings specified in **clause 10.1**.

Acknowledgment

10.3 The parties acknowledge that:

- (a) VicGrid is only entering into the NSAs to fulfil its obligations under the Rules following Customer's request for *connection*, and for no other reason;
- (b) VicGrid will be exposing itself to potential liabilities under the NSAs for which it has no other reason to expose itself; and
- (c) VicGrid requires Customer to provide security for payment in the form of a Bank Guarantee.

Provision of Bank Guarantees

10.4 At all times, Customer must ensure that VicGrid is the recipient and beneficiary of one or more Bank Guarantees the aggregate face value of which must, at all times, be equal to or exceed the Minimum Amount.

10.5 Subject to **clause 10.6**, VicGrid, by giving not less than 20 Business Days' notice to Customer, may increase the Minimum Amount by such amount as is necessary to maintain VicGrid's liability and risk profile at the level that applied at the date of this Agreement.

Bank Guarantee Renewal and Replacement

10.6 If the VicGrid Bank Guarantee:

- (a) is due to expire, Customer must ensure that VicGrid receives a new Bank Guarantee in exchange for the VicGrid Bank Guarantee at least 20 Business Days before the VicGrid Bank Guarantee is due to expire; and
- (b) ceases to meet the requirements of this **clause 10** for any other reason, Customer must ensure that VicGrid receives a new or additional Bank Guarantee so as to meet those requirements within 10 Business Days of the date that Customer becomes aware that the VicGrid Bank Guarantee does not meet those requirements.

10.7 Customer may provide a new Bank Guarantee which meets the requirements of this clause 10 in exchange for an existing VicGrid Bank Guarantee then held by VicGrid.

- 10.8 Immediately upon receipt by VicGrid of any replacement Bank Guarantee, VicGrid must return the expired, non-complying or existing Bank Guarantee (as applicable) to either the issuing bank or Customer (at Customer's election).

Calling on a Guarantee

10.9

- (a) Notwithstanding any other provision of this Agreement, if VicGrid does not receive a replacement Bank Guarantee in accordance with **clause 10.6**, VicGrid may call on the VicGrid Bank Guarantee for an amount less than or equal to the Minimum Amount.
- (b) On or after:
 - (i) the occurrence of an Insolvency Event in relation to Customer; or
 - (ii) termination of this Agreement earlier than the expiration of the term under **clause 2.2**
 - (iii) in circumstances other than as a result of VicGrid's Wilful Breach,VicGrid may call on the VicGrid Bank Guarantee if Customer commits a Financial Default and VicGrid has given Customer a Default Notice under the PCCD and the Financial Default is not cured within the period required by the Default Notice.
- (c) For the avoidance of doubt, clauses 38 and 42 of the PCCD do not apply to the exercise by VicGrid of its rights under **paragraph (a) or (b)**, but this **paragraph (c)** does not relieve VicGrid from any liability it has to Customer under **clause 10.15**.

10.10 If Customer fails to pay any Claim made by VicGrid against Customer in connection with this Agreement, whether for damages or otherwise, but not to the extent that Customer has a bona fide objection to any part of that Claim, and VicGrid has given Customer a Default Notice in respect of the Claim that is not subject to a bona fide objection (**Financial Default**), and the Financial Default is not cured within the period required by the Default Notice, VicGrid is entitled to call on the VicGrid Bank Guarantee for a sum less than or equal to the Claim plus the amount of any unpaid interest that is payable in accordance with the relevant Related Agreement.

10.11 If VicGrid has obtained an award or judgment against Customer and the amount awarded has not been paid within 14 days of the award or judgment, or such other period as the award or judgement may provide, VicGrid is entitled to call on the VicGrid Bank Guarantee for a sum less than or equal to the amount of the award or judgment that is unpaid plus the amount of any unpaid interest that is payable in accordance with that award or judgement or the relevant Related Agreement.

10.12 If, under Part 5.7B of the Corporations Act or another Law relating to insolvency or the protection of creditors or similar matters, VicGrid is required to disgorge or repay an amount, or pay an amount equivalent to an amount paid under this Agreement or an VicGrid Bank Guarantee, VicGrid is entitled to call on the VicGrid Bank Guarantee for a sum equal to the amount disgorged, repaid or paid.

10.13 Except as expressly required by **clause 10.9(b)**, **10.9** or **10.11**, VicGrid is not required to give Customer notice before it exercises its rights under **clause 10.8**, **10.9**, **10.10** or **10.11**, and the Dispute Resolution Procedure does not apply to the exercise by VicGrid of its rights under those clauses but VicGrid must promptly give Customer notice after it has exercised its rights under **clause 10.8**, **10.9**, **10.10** or **10.11**, however, this **clause 10.12** does not relieve VicGrid from any liability it has to Customer under **clause 10.15**.

10.14 If VicGrid calls on an VicGrid Bank Guarantee and is paid the amount of the call, Customer is taken to have paid a sum toward payment of the relevant invoice, award or judgement equal to the amount received by VicGrid under the call.

10.15 If VicGrid calls on an VicGrid Bank Guarantee when it is not entitled to do so, it must, on demand, reimburse Customer for all losses and costs incurred by Customer (including any increase to Customer's cost of funds) directly caused by that wrongful call.

No Merger of Rights

10.16 Except as provided by **clause 10.14**, an exercise by VicGrid of its rights under this **clause 10** does not:

- (a) relieve Customer of any of its obligations under this Agreement; or

- (b) merge, extinguish, postpone or lessen any right VicGrid may have against Customer under this Agreement.

10.17 An exercise by VicGrid of its rights to call on an VicGrid Bank Guarantee under this **clause 10** does not extinguish the VicGrid Bank Guarantee and does not prevent a later exercise by VicGrid of its rights to make a further call on the VicGrid Bank Guarantee.

Return of Bank Guarantee

10.18 Subject to **clause 10.7**, VicGrid must return each VicGrid Bank Guarantee to the issuing bank or, if requested by Customer, to Customer, within 5 Business Days of whichever of the following events occurs first:

- (a) the date on which Customer has discharged all payment obligations to VicGrid under the Related Agreements; and
- (b) the date on which VicGrid receives, in cleared funds, the total amount payable under the VicGrid Bank Guarantee.

10.19 Within 10 Business Days of the date on which Customer has discharged all payment obligations to VicGrid under the Related Agreements (including this Agreement), VicGrid must provide Customer with a notice confirming that all of Customer's payments under this Agreement have been met.

11 Transparency

Audit of Network Services Agreement Records

11.1 VicGrid must:

- (a) reasonably consider any request from Customer for VicGrid to exercise VicGrid's rights to audit
- (b) TNSP's or AusNet Services' records;
- (c) exercise those rights if VicGrid reasonably considers, in all of the relevant circumstances, the request is justified; and
- (d) inform Customer of the outcome of such an audit.

Reduction in Services under Network Services Agreement

11.2 Customer may give VicGrid notice that it no longer requires the Specified Services to be provided at the levels specified in this Agreement.

11.3 If Customer requests a reduction in the level of Specified Services, VicGrid must promptly:

- (a) notify TNSP and AusNet Services that it no longer requires Network Services at the levels specified in the NSAs, to the extent necessary to deliver the Specified Services at the reduced level required by Customer; and
- (b) involve Customer in any good faith negotiation of an appropriate reduction in the relevant Transmission Charge to reflect a reduction in the ongoing costs of AusNet Services in relation to Interface or Terminal Station.

Performance Management

11.4 If VicGrid notifies AusNet Services of a 'Non-Compliance' under the relevant NSAs, VicGrid must promptly:

- (a) provide Customer a copy of the notice provided to AusNet Services in respect of that 'Non-Compliance';
- (b) consider any views expressed by Customer when determining what response or course of
- (c) action VicGrid will take in relation to the 'Non-Compliance';
- (d) keep Customer informed of any remedial or other action agreed or carried out under the NSA; and
- (e) provide Customer with copies of correspondence between VicGrid and AusNet Services in relation to VicGrid's obligations under **clause 11.4**.

VicGrid actions at Customer's Cost

- 11.5 Any action taken by VicGrid under this **clause 11** at Customer's request will be entirely at Customer's cost (subject to VicGrid providing the Customer with reasonable written evidence of such cost).

VicGrid 'Flow-Through' Breach

- 11.6 To the extent VicGrid is a Defaulting Party and the Default Event is caused or contributed to by a breach of a Related Agreement by AusNet Services, VicGrid will be regarded as using its reasonable endeavours to remedy the Default Event if it complies with its obligations (if any) under the relevant Related Agreement in relation to the breach by AusNet Services.

12 Contribution - Subsequent Connection

New Proponent

- 12.1 If VicGrid proposes to make an offer to *connect* to New Proponent, VicGrid must, to the extent compatible with the VicGrid Functions, negotiate with New Proponent in good faith to endeavour to achieve a use of system agreement between VicGrid and New Proponent under which New Proponent agrees to the following outcomes:
- (a) New Proponent contributes to the costs arising under each NSA consistent with VicGrid's then applicable 'Costs Allocation Policy'; and
 - (b) subject to clause 5.10 of the PCCD, so that New Proponent has rights and obligations that are substantially the same as those of Customer under the Related Agreements or otherwise as a *Network User*,
- (each, an **Outcome**).

Costs arising under Network Services Agreements

- 12.2 For the purposes of **clauses 12.1(a)** and **12.4**, the 'costs arising under each NSA' will be:
- (a) the component of the Transmission Underwriting Charges relating to the relevant NSA; plus
 - (b) any other amounts or costs of the kind described in **clauses 8.15** and **8.5** other than one arising out of a Wilful Breach by VicGrid; plus
 - (c) any other costs that the principles in VicGrid's then applicable 'Costs Allocation Policy' contemplate will be taken into account in situations of this kind,
- but excluding any costs that cannot be taken into account by VicGrid for this purpose at that time under the Regulatory Instruments.
- 12.3 (a) VicGrid will keep Customer informed of the progress of those negotiations, provided that VicGrid is not required to provide Customer any confidential information relating to the negotiations with a New Proponent contemplated by **clause 12.1**.
- (b) If a New Proponent initiates an applicable dispute resolution procedure in relation to the Outcomes, the parties agree, to the extent that this is possible, to have the Dispute Resolution Procedure apply.

Adjustment

- 12.4 The parties will negotiate in good faith to agree an appropriate adjustment or adjustment mechanism in relation to:
- (a) the Transmission Underwriting Charges;
 - (b) any other payments that may become payable under this Agreement; and
 - (c) the Minimum Amount,
- to reflect the extent to which New Proponent has agreed in its use of system agreement with VicGrid to contribute to VicGrid's costs arising under each NSA while ensuring that VicGrid is not left "out-of-pocket".

- 12.5 Any adjustment or adjustment mechanism under **clause 12.4** will apply on and from the commencement date of New Proponent's relevant contribution to VicGrid's costs arising under each NSA under the use of system agreement between New Proponent and VicGrid and will continue until the earlier of the date this Agreement terminates or the date the New Proponent's use of system agreement expires.

Other

- 12.6 VicGrid has no liability to Customer in relation to the payment by New Proponent of a contribution to the costs arising under each NSA or the inclusion of terms contemplated under **clause 12.1** in the New Proponent's use of system agreement, including where New Proponent does not agree to pay a contribution or include such terms.
- 12.7 Customer will have no liability to VicGrid in relation to any failure by New Proponent to pay any amount to VicGrid under New Proponent's use of system agreement with VicGrid or under any Related Agreement to which New Proponent becomes a party.
- 12.8 Nothing in **clause 12** obliges VicGrid to:
- (a) initiate a relevant dispute resolution procedure in relation to the Outcomes;
 - (b) obtain Customer's agreement or consent prior to entering into a use of system agreement with a New Proponent or taking any action contemplated by the National Electricity Law or the Rules; or
 - (c) do or omit to do any act or reach or give effect to any agreement, arrangement or understanding that is contrary to Law.

13 Disconnection

Disconnection following Reduction in Service

- 13.1 If Customer requires a reduction in the level of Specified Services, VicGrid may *disconnect* that part of the Victorian Transmission Network no longer required to provide the reduced level of Specified Services and notify the Customer and any affected third parties of the *disconnection*.

Disconnection upon Termination

- 13.2 If this Agreement is terminated, VicGrid may *disconnect* the Point of Supply and notify the Customer and any affected third parties of the *disconnection*.

14 Extent of Liability

Liability Capped

- 14.1 The total amount recoverable from a party for any Claims arising directly or indirectly out of or in connection with this Agreement is limited in accordance with the PCCD.

Resupply if Non-Excludable Warranties Breached

- 14.2 The liability of VicGrid for breach of a non-excludable condition or warranty implied by Law relating to the supply of goods or services under this Agreement is limited, at the option of VicGrid, to the resupply of the relevant goods or services, or the cost of resupplying the relevant goods or services.

Consistency

- 14.3 In the event of any inconsistency between this **clause 14** and any other provision in this Agreement, this **clause 14** prevails.

15 Indemnities

Customer Indemnity

- 15.1 Subject to **clause Error! Reference source not found.**, Customer will indemnify VicGrid on demand against any Claim that VicGrid is liable for in respect of any of the following:

- (a) Customer's failure to pay the Transmission Underwriting Charge or any other amount that becomes payable under this Agreement when due;
- (b) Customer's failure to comply with any of its obligations under this Agreement;
- (c) the occurrence of a Default Event under an NSA in respect of VicGrid, where the occurrence of the event is caused or contributed to, directly or indirectly, by an act or omission of Customer;
- (d) termination of this Agreement as a result of Customer's breach of any Related Agreement;
- (e) termination of a NSA:
 - (i) to the extent caused by, or contributed to, by an act or omission by Customer; and
 - (ii) except for any loss or damage claimed by a person (other than Customer) who owns or operates a *facility* that is Connected to the Victorian Transmission Network at the Terminal Station, other than as permitted by **paragraph (g)**;
- (f) a Native Title Application; and
- (g) any loss or damage suffered by a person (other than Customer) who owns or operates a *facility* that is Connected to the Victorian Transmission Network at the Terminal Station where that loss or damage arises from a breach of this Agreement or breach of Law by Customer in respect of the Point of Supply.

16 General

Survival

16.1 **Clauses 1, 7, 8, 9, 13.2** and this clause **14** survive the end of this Agreement.

Governing Law

16.2 This Agreement and the transactions contemplated by this Agreement are governed by the Law of Victoria.

General

16.3 This Agreement may be signed in any number of counterparts and all such signed counterparts, taken together, will be deemed to constitute one and the same instrument.

16.4 This Agreement can only be amended, supplemented, replaced or novated by another document signed by the parties.

EXECUTED AS AN AGREEMENT

EXECUTED by **VICGRID** by its duly authorised
representative in the presence of:)
)
)
)

Signature of witness

Signature of representative

Name of witness (please print)

Name of representative (please print)

EXECUTED by **[Insert]** in accordance with
section 127(1) of the Corporations Act 2001
(Cth) by authority of its directors:)
)
)
)

Signature of director

Signature of director/secretary

Name of director (please print)

Name of director/secretary (please print)

Schedule 1 – Specified Services

Schedule 2 – Customer's Technical Obligations

Schedule 2 details the technical obligations applicable to the BESS. Where a requirement is described in the registered battery energy storage system performance standards (**BPS**), reference is included to the relevant clause of the BPS.

Schedule 3 – Transmission Underwriting Charge

Definitions:

In this **Schedule 3**:

Escalation Date means the Date of Practical Completion and each anniversary of that date.

Payment Year means each year during the Term commencing on the Date of Practical Completion and on each anniversary of that date.

Reference Date means **[Insert]**.

The **Transmission Underwriting Charge** is the aggregate of:

- (a) the Transmission Charge in relation to the Interface as specified in **Part S3A**; and
- (b) the Transmission Charge in relation to the Terminal Station as specified in **Part S3B**.

PART S3.A – Transmission Underwriting Charge – Interface

S3.A.1 Transmission Charge

The Transmission Charge for the Interface has been derived using, amongst other values, those specified in **Tables S3A.2.1**.

Table S3A.2.1 Values used in calculation of Monthly Transmission Charges

Total Capital cost of Interface in real dollars as at the Reference Date	[Insert]
Life of the original Interface for contract purposes	[Insert] years
Annual operations and maintenance cost in real dollars as at the Reference Date	\$(Insert)

The Transmission Charge for each Payment Year is payable from the Date of Practical Completion to the end of the Term.

The monthly charge is **\$(Insert)** and is expressed in real dollars as at the Reference Date (exclusive of GST) and will be CPI Adjusted on each Escalation Date.

PART S3.B – Transmission Underwriting Charge - Terminal Station

S3.B.1 Transmission Charge

The Transmission Charge has been derived using, amongst other values, those specified in **Tables S3B.2.1**.

Table S3B.2.1 Values used in calculation of Monthly Transmission Charges

Total Capital cost of the Terminal Station in real dollars as at the Reference Date	\$(Insert)
Life of the original Terminal Station for contract purposes	[Insert] Years
Annual operations and maintenance cost in real dollars as at the Reference Date	\$(Insert)

The Transmission Charge for each Payment Year is payable from the Date of Practical Completion to the end of the Term.

The monthly charge is **\$(Insert)** and is expressed in real dollars as at the Reference Date (exclusive of GST) and will be CPI Adjusted on each Escalation Date.

Schedule 4 – Registered Data

- S4.1 The following data has been provided to VicGrid by Customer and is the registered system planning data required by clause S5.5 of the Rules for the BESS.
- S4.2 Customer represents and warrants to VicGrid that the data in Schedule 4 is accurate.
- S4.3 Customer must provide all data to VicGrid in finalised form and to VicGrid's reasonable satisfaction no later than 2 months prior to the expected date of commissioning of the first *generating unit*.

Attachment 1 – Form of Bank Guarantee

[FINANCIAL INSTITUTION LETTERHEAD]

TO: VicGrid
ABN 90 719 052 204
Level 37, 2 Lonsdale Street
MELBOURNE VIC 3000

Attention: Chief Operating Officer

Dear Sir

Guarantee

Defined Terms

Unless otherwise defined, the meaning of all capitalised terms is specified in table below:

CUSTOMER:	Name:	
	ABN:	
	Address:	
	Fax No:	
Maximum Period:		24 hours
Financial Institution:	Name:	
	ABN:	
	*Address:	
	Fax No:	
	Contact Person:	
	Contact Person Telephone No:	
Maximum Amount:		AUD
Guarantee No:		
Effective Date:		
Expiry Date:		

*Must be the address of a branch in the Melbourne CBD

Introduction

This is a Guarantee for the benefit of the **VicGrid** provided in accordance with a Use of System Agreement entered into between VicGrid and Customer on or about [insert date] (**UoSA**).

At the request of Customer and in consideration of VicGrid's:

- (a) acceptance of this Guarantee for the purposes of the UoSA at our request; or
- (b) payment or agreement to pay us the sum of \$1; or
- (c) extending other valuable consideration to Customer at our request,

the Financial Institution unconditionally and irrevocably undertakes to pay to VicGrid on demand from time to time any and all amounts (in AUD) to an aggregate amount not exceeding the Maximum Amount.

Demand

A demand from VicGrid under this Guarantee must:

1. be in writing and sent, presented or faxed to the Financial Institution at the address and fax number specified in the Details;
2. state it is sent under the Guarantee No. specified in the Details;
3. specify the amount demanded by VicGrid;
4. specify the time at which payment is to be made (such time to be not less than the Maximum Period after the demand is received by the Financial Institution); and
5. be signed by, or purportedly signed by, the Chief Financial Officer or the Group Manager Commercial Services of VicGrid or any person acting in the place of or performing the duties of either of those officers.

Any telephone communications to the Financial Institution should be directed to the Contact Person using the Contact Person Telephone No.

The Financial Institution must pay the amount specified in a demand in cleared funds to the account specified in the demand at or before the time specified for payment, however, if:

- (A) in the case where the demand is sent, it is received by the Financial Institution; or
- (B) in the case where the demand is presented or faxed, it is received by the Financial Institution,

(as the case may be) on a day that is not a Business Day or after 3.00 pm in the place where the relevant office of the Financial Institution is situated on a Business Day, the Financial Institution will be taken to have received the demand at 9.00 am in the place where the relevant office of the Financial Institution is situated on the next Business Day. For this purpose, a "Business Day" is a day on which the Financial Institution is open for business in the city in which the Financial Institution's address set out in the Details is located.

If a demand under this Guarantee is faxed to the Financial Institution, VicGrid must provide to the Financial Institution the original of the fax as soon as practicable after the fax is sent. Notwithstanding this requirement, the Financial Institution must pay the amount specified in the faxed demand on the basis of the faxed demand.

Other matters

The Financial Institution must make the payment demanded without reference to Customer and notwithstanding any contrary notice or direction from Customer.

This Guarantee is a primary obligation and is not reduced, impaired, discharged or otherwise affected by anything that might otherwise affect it, or would discharge a surety, at law or in equity including, but not limited to, any extension or variation to the UoSA or time or other indulgence or forbearance on the part of VicGrid on the one hand or Customer on the other hand to each other made or agreed without the Financial Institution's knowledge or consent.

The Financial Institution irrevocably waives to the fullest extent it is permitted to do so by law any right to claim sovereign immunity for itself and its assets (including from jurisdiction, enforcement or execution) to which it might otherwise be entitled in any action based on this Guarantee that may be instituted in a competent court.

This Guarantee:

- (a) must not be assigned without the Financial Institution's written consent; and
- (b) is governed by and construed in accordance with the laws of Victoria.

Effective Date

This Guarantee will take effect on and from the Effective Date.

Termination

A demand may be made under this Guarantee at any time until the first to occur of:

- (i) the Financial Institution's receiving notice in writing signed by the Chief Financial Officer or Group Manager Commercial Services of VicGrid or any person acting in the place of or performing the duties of any of those officers that the Guarantee is no longer required;
- (ii) payment to VicGrid by the Financial Institution of the whole of the Maximum Amount;
- (iii) replacement of this Guarantee by another guarantee in a form satisfactory to VicGrid for an amount agreed to by Customer and VicGrid; and
- (iv) 5.00 pm, in the place where the relevant office of the Financial Institution is located, on the Expiry Date (unless prior to that date VicGrid notifies the Financial Institution in writing that an application has been made for the winding up of Customer, in which case this Guarantee will continue until the first to occur of the events listed in paragraphs (i), (ii) and (iii)).

The Financial Institution may at any time, without being required to do so, pay to VicGrid the Maximum Amount less any amounts the Financial Institution may have already paid under this Guarantee (or such lesser sum as the Chief Financial Officer or Group Manager Commercial Services of VicGrid may agree in writing) and thereupon its liability under this Guarantee immediately ceases.

Once demands may no longer be made under this Guarantee for any of the reasons specified above, VicGrid must return the Guarantee to the Financial Institution.

Executed as a deed poll on [Insert Date]

SIGNED by [insert name of attorney] as attorney for)
[insert name of Financial Institution] under power of)
attorney dated [insert date of power of attorney] in the)
presence of:)

Signature of witness)

Name of witness (block letters))

Address of witness)

Occupation of witness)

By executing this deed poll the attorney states that the
attorney has received no notice of revocation of the power
of attorney