

**Electricity Industry Act 2000**

CITIPOWER PTY

ABN 76 064 651 056

## DEEMED ELECTRICITY DISTRIBUTION CONTRACT

**INTRODUCTION**

These standard terms and conditions for electricity distribution are published under section 40A of the **Electricity Industry Act 2000** (the Act) and have been approved by the *Regulator*.

These terms and conditions take effect on the day on which they are published in the Government Gazette. Unless clause 2.2 applies, they form a contract that is binding on us, CitiPower Pty, and you, the customer, for the period set out in clause 3.

This contract sets out:

- the terms and conditions on which we will maintain the connection of your *supply address* to our *distribution system*; and
- certain rights and obligations relating to the supply of electricity to your *supply address*.

**TERMS AND CONDITIONS****1. Definitions and interpretation****1.1. Defined terms**

The meaning of words which appear in ***bold and italics*** in this contract is explained in Schedule 1 – Glossary.

**1.2. Interpretation**

The following rules of interpretation apply in this contract unless otherwise stated.

- (a) **(Acts, etc.)** A reference to an act, regulation, code, licence or other legal instrument is a reference to that act, regulation, code, licence or other legal instrument as it may be amended, re-enacted, consolidated or replaced from time to time.
- (b) **(Singular and plural)** References to the singular include the plural and vice-versa.
- (c) **(including)** Examples after the words ‘including’, ‘includes’ or ‘for example’ are descriptive only and are not exhaustive.
- (d) **(clauses and schedules)** A reference to a ‘clause’ or ‘schedule’ is to a clause of, or a schedule to, this contract.

**2. Application of this contract****2.1. Who are the parties?**

Unless clause 2.2 applies, this contract binds CitiPower Pty, ABN 76 064 651 056, (referred to as ‘us’, ‘we’, ‘our’ or the ‘distributor’) and any customer whose *supply address* is connected to our *distribution system* (referred to as ‘you’, ‘your’ or the ‘customer’).

**2.2. When does this contract not apply?**

This contract does not apply to you:

- (a) in relation to a particular *supply address* to the extent that you have a separate written agreement with us that deals with a provision that is covered by this contract to the extent of any inconsistency. If there is any inconsistency between a provision in this contract and a provision in a separate written agreement you have with us, the provision in the separate written agreement will prevail to the extent of the inconsistency; or
- (b) if you do not have a valid contract (which may be a deemed contract) with a *retailer*.

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**3. Duration of this contract**

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**3.1. When does this contract start?**

- (a) This contract starts on the date specified in the Introduction on page 1, if your *supply address* is already *connected* to our *distribution system* on that date.
- (b) If you or your *retailer* request connection or reconnection of a *supply address* after that date, this contract starts on the date that the *supply address* is connected or reconnected to our *distribution system*.

**3.2. When does this contract end?**

This contract will end on the earlier of:

- (a) the date we disconnect your *supply address* from our *distribution system*; or
- (b) the effective date of any new terms and conditions published by us in accordance with section 40A of the *Act*.

In spite of this contract ending, any rights or liabilities incurred under this contract continue.

**4. Scope of this contract**

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**4.1. What does this contract cover?**

This contract sets out or incorporates the rights and obligations of you and us relating to the way in which *network services* and *excluded services* will be provided to your *retailer* to supply to you in respect of your *supply address*, unless you have a separate contract with us in respect of these matters.

**4.2. What is not covered?**

This contract does not cover:

- (a) the sale of electricity to you (this is covered by the contract between you and your *retailer*);
- (b) any work carried out by us to connect your *supply address* to our *distribution system* (this would be covered by a separate contract between you and us);
- (c) the supply of any other *excluded services* to the extent that these services are covered either under the contract between you and your *retailer* or a separate contract between you and us; and
- (d) any work carried out by us to increase the capacity of a *supply point* (this would be covered by a separate contract between you and us).

**4.3. Network services**

Our *network services*, and some *excluded services*, are provided to your *retailer* who will supply these services to you (unless you have a separate agreement with us in respect of these services). We may supply some *excluded services* to you directly. This contract gives you certain contractual rights in relation to attributes of or incidental to, all those services and imposes some obligations on you (for example, clause 5(b)).

**5. Compliance with the Distribution Code and the Electricity Law**

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- (a) The *Distribution Code* sets out a number of rights and obligations of customers and distributors. This contract is taken to include each provision of the *Distribution Code*.
- (b) You must comply with the obligations imposed on customers under the *Distribution Code*.
- (c) We must comply with the obligations imposed on us under the *Distribution Code*.
- (d) If there is an inconsistency between the *Distribution Code* and this contract, the *Distribution Code* prevails. A term or condition of this contract is void to the extent that it is inconsistent with the *Distribution Code*.

- (e) If the **Distribution Code** is amended after the date this contract starts, as specified in clause 3.1, the **Distribution Code** will thereafter apply to this contract as amended.
- (f) We will provide to you a copy of the **Distribution Code** upon request from you. We may charge you a reasonable fee for this copy.
- (g) The parties must also comply with all other applicable provisions of the **Electricity Law** in relation to **distribution services**.

## 6. Technical and operational issues

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### 6.1. Our technical requirements

You must ensure that your **electrical installation** complies with, and is installed and maintained in accordance with:

- (a) the reasonable technical requirements required by us (these requirements are outlined in the **Service & Installation Rules**);
- (b) all applicable Australian Standards;
- (c) **Electricity Safety Act 1998** and regulations made under that Act; and
- (d) any other technical requirements reasonably required by us.

### 6.2. Our equipment on your premises

None of the equipment and assets that we install at your **supply address**, whether or not they are fixed to the land or any buildings on the land, will become part of the land or premises at the **supply address** and we may remove them after disconnection of your **supply address**. Your obligations in respect of our equipment and assets will continue after this contract ends.

### 6.3. Your equipment on your premises

Your equipment at your **supply address** connected to the **distribution system** must have a nominal voltage rating within the nominal voltage supply range for the **supply point**.

### 6.4. Your maximum allocated capacity

You must ensure that the demand of electricity taken at your **supply address** does not exceed maximum allocated capacity. Unless otherwise agreed with us your maximum allocated capacity is:

- (a) 10 kilowatts for a single phase connection; or
- (b) otherwise, the rating of the smallest component of the **distribution system** used solely to supply electricity to your **electrical installation**.

If you wish to increase your maximum allocated capacity, we may be entitled to charge you for the cost of any necessary works, as provided for in our customer contribution policy.

### 6.5. Assignment of network tariffs

We will assign you a **network tariff** and you agree that we may, from time to time, assign you a different **network tariff** based on the eligibility criteria published by us from time to time in our annual tariff reports. An extract from the current annual tariff report will be provided to you upon request.

### 6.6. Maximum demand

This clause 6.6 only applies to you if you are a customer that has been allocated to a tariff by us that has a **maximum demand** (for example, tariff codes C2DL, C2DLB, C2DH, C2DHD1 and C2DT details of which are set out in our annual tariff report; a copy of the current annual tariff report will be provided to you upon request).

You agree that where you wish to change your **maximum demand** the following criteria will apply:

- (a) *Increases in maximum demand*

Where you require an increase in **maximum demand** at a **supply point**, you must make a written request to your **retailer** or to us. The increased level of **maximum demand** shall apply from the requested date or as near as possible thereafter as determined by us, subject to any required work being completed by us.

- (b) *Temporary increases in maximum demand*
- (i) Temporary increases in **maximum demand** may, in our discretion, be made available by us to you in respect of the relevant **supply point** to cover specific, short-term needs, such as the commissioning of new plant. In making our decision, relevant factors we will consider are:
    - (A) receiving at least one month's written notice from you; and
    - (B) prior agreement from us (which agreement will be conditional upon the necessary capacity being available in our **distribution system**).
  - (ii) Temporary increases in **maximum demand** will:
    - (A) be defined in terms of "additional demand" for a specific period;
    - (B) apply for one full billing period, except in the case of commissioning of new plant, in which case the duration of the temporary increase may be extended for the duration of the commissioning;
    - (C) be charged at our standard demand charge from time to time;
    - (D) be limited to one occurrence in any 12 month period unless otherwise agreed by us.
- (c) *Reduction in maximum demand*
- (i) Where you require a reduction in **maximum demand** at a **supply point**, you must give 12 months written notice of this requirement to your **retailer** or to us. If we agree to reduce the **maximum demand** to any level down to the level sought by you, we must notify you in writing within the 12-month notice period of a new **maximum demand**. The new **maximum demand** will apply after the date when your meter is first read following that 12-month notice period.

However, following installation by you of load management equipment approved by us or the implementation of a demand management initiative approved by us, the 12-month notice period may be reduced at our discretion.
- (d) *Changes following maximum demand being exceeded*
- In the event that the metered **maximum demand** in a billing period exceeds the **maximum demand** for you in respect of the relevant **supply point**:
- (i) a new **maximum demand** is established equal to the metered demand in that billing period;
  - (ii) the new **maximum demand** shall not apply to temporary increases in demand that we negotiate with you in accordance with clause 6.6(b)(i);
  - (iii) the new **maximum demand** shall apply for at least 12 months unless an exemption is obtained under sub-paragraph (iv) below;
  - (iv) if the **maximum demand** is established as a result of a fault in your electrical installation in respect of the relevant **supply point**, then we may in our discretion reduce the **maximum demand** back to the previous level after three months. In making our decision, relevant factors we will consider are whether:
    - (A) we receive a written application for such a reduction from you within 30 days of billing following the fault; and
    - (B) we are satisfied that:
      - (I) the fault has been diagnosed; and
      - (II) action has been taken to avoid a recurrence of that or similar faults; and

- (v) where the capacity of our *distribution system* is inadequate to make supply available at a higher rate on a continuous basis, we may advise you that the new *maximum demand* will apply only for the billing period in which it was established, pending augmentation of our *distribution system* and renegotiation of a revised *maximum demand*. The *maximum demand* thereafter is limited to the available capacity of our *distribution system*, as determined by us, by suitable load limiting equipment installed by you to our satisfaction.
- (e) We do not charge for the administration involved in changing your *maximum demand*. However, changes in *maximum demand* result in different *network tariffs* applying to you and different charges applying under those *network tariffs*.

## 7. Charges

### 7.1. Charges billed to your retailer

We do not bill you for our *network services* or metering services, and certain *excluded services*, we provide to your *retailer*, which your *retailer* provides to you. We bill your *retailer* under our *use of system agreement* with your *retailer*. These charges which will not be billed under this contract include:

- (a) our *network tariffs* and *metering service tariffs* relating to the supply of electricity to your *supply address*;
- (b) our *approved charges* for some *excluded services* that you or your *retailer* may request;
- (c) any additional or supplementary charge relating to the supply of electricity to your *supply address* if the *Regulator* has approved that charge, or we are otherwise permitted under the *Electricity Law* to impose that charge.

However, if there is a separate agreement about our services between you and us or, in the circumstances set out in clause 7.2, we may bill you directly.

### 7.2. Excluded services

We may bill you directly for some *excluded services* that we provide you directly, ie. that we do not provide to your *retailer* to provide to you. We may also bill you directly for some services that we provide in accordance with electricity industry practice, even though you do not request these services.

### 7.3. Goods and Services Tax

Our *approved charges* are inclusive of GST.

If any other amount payable by you or us under this contract relates to a taxable supply for GST purposes then, to the extent permitted by law, the payment will be adjusted so that the recipient of the taxable supply bears the GST payable in respect of that taxable supply.

## 8. Our liability

### 8.1. When we are not liable

Subject to clause 8.3, no party is liable for any failure to comply with this contract or the *Electricity Law* if, and to the extent that:

- (a) that party is relieved from performance of, or liability in respect of, any of our obligations by the operation of section 117 of the *Act* and sections 119 and 120 of the *National Electricity Law* (and for the avoidance of doubt nothing in this contract varies the operations of any of the legislative provisions mentioned above); or
- (b) the failure to comply arises as a result of the other party's breach of this contract or the *Electricity Law* or (subject to the other party's compliance with its relevant obligations under the *Distribution Code*) by a *force majeure* event; or
- (c) you have not complied with clause 8.5.

Paragraphs (a) to (c) above are not exhaustive and do not limit or diminish other reasons why each party may not be liable to the other party under the law.

**8.2. Limitation of statutory liability**

To the extent permitted by law, all statutory or implied conditions and warranties are excluded from this contract and, to the extent they cannot be excluded, all liability in relation to them is disclaimed to the maximum extent permitted by law.

**8.3 Our liability under the Trade Practices Act, etc.**

The **Trade Practices Act 1974** and other laws may imply certain terms into contracts that cannot be legally excluded. Any liability we have to you under any such term is limited to the maximum extent permitted by law and, if the law allows, is limited to:

- (a) in the case of goods, the supply of equivalent goods or paying you the cost of acquiring equivalent goods (at our option); and
- (b) in the case of services, supplying the services again or paying you the cost of acquiring equivalent services (at our option).

**8.4. Quality or reliability of supply**

You acknowledge that:

- (a) the quality and reliability of the supply of electricity to your **supply address** is subject to a variety of factors which may be beyond our control including, but not limited to, accidents and emergencies, weather conditions, vandalism, system demand, the technical limitations of our network and the acts of other persons, including customers, electricity generators, transmission companies and system controllers;
- (b) we can interrupt or limit the supply of electricity to your **supply address** in accordance with the **Electricity Law**; and
- (c) variations in voltage or frequency may cause damage, for example, to appliances or machines connected to the electricity supply.

**8.5. You must take precautions**

You must, if you are a **business customer**, take reasonable precautions to minimise the risk of any loss or damage to your equipment, premises or business which may result from poor quality or reliability of electricity **supply**.

**9. Privacy**

We must comply with the **Privacy Act 1998** (Cth) and any applicable State law in respect of your personal information (as that term is defined in the **Privacy Act**) that you or your **retailer** disclose to us for the purposes of us providing **network services** and **excluded services** in respect of your **supply address**. You consent, and if you are a corporation and the personal information relates to your directors, you will procure each of your directors to consent to us using and disclosing your personal information for the purposes of assessing the standard of the services we provide to you or your **retailer** from time to time.

**10. General****10.1. Notices**

- (a) Notices (including all communications) under this contract from you to us must be in writing and may only be sent by hand, prepaid post, or fax to the address or fax number set out below:

*CitiPower Pty,  
40 Market Street,  
Melbourne, Vic, 3000.  
Fax: (03) 9683 4499*

or to any other address or fax number that we notify to you for this purpose.

- (b) Your **retailer** may send you notices under this contract on our behalf.
- (c) If a notice is sent by prepaid post, it is taken to be received two business days after it was posted.

**10.2. Waiver**

A failure to exercise or delay in exercising a power or right does not operate as a waiver of that power or right.

The exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.

A waiver is not effective unless it is in writing and is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

**10.3. Severability**

If any term of this contract is unenforceable, illegal or void then it is severed and the rest of this contract remains in force.

**10.4. Law of this contract**

The law of Victoria governs this contract.

**Glossary**

Words appearing in *bold and italics* have these meanings in this contract:

*Act* means the **Electricity Industry Act 2000** (Vic).

*approved charges* means the charges, maximum charges, pricing principles or pricing methodology that we will apply for some services that are not subject to *network tariffs*, as set out in a statement approved by the *Regulator*.

*business customer* means a customer who does not purchase electricity principally for personal, household or domestic use at the relevant *supply addresses*.

*connect* means the making and maintaining of contact between the electrical systems of two persons allowing the *supply* of electricity between those systems and includes *energisation* unless expressly excluded and reconnect has a corresponding meaning.

*Distribution Code* means the Electricity Distribution Code issued by the *Regulator*.

*distribution services* means *network services, excluded services* (where they are not the subject of a separate agreement between you and us), and the provision and maintenance of the connection between our *distribution system* and a *supply point*.

*distribution system* means our distribution network of electric lines and associated equipment.

*domestic customer* means a customer who purchases electricity principally for personal, household or domestic use at the relevant *supply address*.

*electrical installation* means any electrical equipment at a *supply address* that is connected to, but not part of, our *distribution system*.

*Electricity Customer Metering Code* means the Electricity Customer Metering Code issued by the *Regulator*.

*Electricity Law* means:

- (a) the *Act*;
- (b) the *Distribution Code*;
- (c) the *Electricity Customer Metering Code*;
- (d) the distribution licence issued to us by the *Regulator*;
- (e) the *National Electricity Law*;
- (f) the **Electricity Safety Act 1998**;
- (g) all regulations, orders, determinations, codes and guidelines made under any act listed above; and
- (h) any other law, statute, regulation, proclamation, order, direction, code, tariff, guideline or standard in relation to electricity supply which can be enforced by law or by the *Regulator*, *NEMMCO*, *VENCorp* or any other regulatory authority against electricity distributors or customers.

**energisation** means the act of the insertion of a fuse or the operation of switching equipment which results in there being a non-zero **voltage** beyond a **supply point**.

**excluded services** means services that we may provide to you in relation to your electricity supply or connection or the **distribution system** and that are not subject to **network tariffs**.

**force majeure event** means an event outside the reasonable control of the distributor or the customer (as the case may be).

**maximum demand** means the electricity supply made available by us for use by a customer at a **supply point** which is used as the basis for setting demand charges to be paid by the customer to us each billing period. For the purpose of clarity, **maximum demand** in this contract relates to calculating demand based **network tariffs** and does not relate to the provision of **distribution services** to you by us. The **maximum demand** for a **supply point** is always more than or equal to the greater of the following:

- (a) minimum chargeable demand applicable to a customer's tariff (where relevant); or
- (b) contract demand set out in a supply contract between us and a customer (where relevant); or
- (c) actual demand, which is measured as the energy consumption recorded over the demand integration period divided by the demand integration period in hours (the demand integration period is 15 minutes).

**metering service tariffs** means the tariff or tariffs charged by us in accordance with the **Electricity Law** for metering services.

**National Electricity Rules** has the meaning given in the **National Electricity Law**.

**National Electricity Law** means the **National Electricity (Victoria) Act 2005** (including the National Electricity Law and the **National Electricity Rules**).

**NEMMCO** means National Electricity Market Management Company Limited.

**network services** means the transportation and delivery of electricity to **supply points** using our **distribution system** and any other services included in our **network tariffs**.

**network tariffs** means the tariff or tariffs charged by us in accordance with the **Electricity Law** for distributing electricity using our **distribution system** and the transmission system.

**Regulator** means the Essential Services Commission or any entity assuming the functions of that Commission in respect of electricity distribution.

**retailer** means, in relation to a customer, a person that holds, or is exempt from holding, a retail licence under the **Act** and sells electricity at the customer's **supply address**.

**Service & Installation Rules** means the Victorian Service & Installation Rules, Code of Practice for the Connection of Electrical Installations to Distribution Companies' Mains 1999, as revised, replaced or amended from time to time.

**supply** in relation to electricity, means the delivery of electricity.

**supply address** means the address where a customer is (or will be) supplied with electricity.

**supply point** means the point where electricity being delivered to a **supply address** leaves our **distribution system**.

**use of system agreement** means an agreement between us and your **retailer** in respect of the provision of **distribution services** by us to your **retailer** and the provision of certain services by your **retailer** to us.

**VENCorp** means Victorian Energy Networks Corporation.

**voltage** means (except in the case of impulse voltage) the root mean square (RMS) of the phase to phase voltage.

Dated 11 January 2007

S. BREHENY  
Chief Executive Officer  
CitiPower Pty