



Victoria Government Gazette

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Electricity Industry Act 2000

LUMO ENERGY

Standard Energy Contract Terms and Conditions (Vic.)

Effective 14 January 2012

In these standard terms and conditions:

We and **Us** means Lumo Energy Australia Pty Ltd ACN 100 528 327. **You** means the person/s taking a supply of electricity or gas from **Us** at the Premises and **Your** has a corresponding meaning.

Where energy is referred to, it means electricity, gas, or both, as the context requires.

This is not a Dual Fuel Contract.

1 Supply of energy

We agree to sell energy to You at Your Premises and You agree to purchase energy from Us on the terms and conditions as set out in this Contract. The quantity of energy supplied by Us to You will be the amount measured by the meter at Your Premises.

2 Commencement date and term

2.1 This Contract commences on the date that You commence to take supply of energy at the Premises from Us (other than by fraudulent or illegal means) (**Commencement Date**):

- a. without having entered into a supply and sale contract with Us; or
- b. having cancelled a supply and sale contract with Us within the cooling-off period relating to the contract and have continued to take supply of energy without entering into a further supply and sale contract with Us.

2.2 We must sell and You must pay Us for energy consumed at the Premises from the later of the Commencement Date and when We become Responsible for the Premises.

2.3 Subject to clause 2.4, this Contract will terminate:

- a. on the date You cease to be responsible for the energy consumed at the Premises under clause 20;
- b. if You breach this Contract by:
 - i. conferring on Us a right to disconnect You under clause 18 at the Premises and You no longer have a right to be reconnected; or
 - ii. transferring to another retailer in respect of the Premises;
- c. if You enter into a new contract for the purchase of energy from Us in respect of the Premises, on the date that the new contract takes effect;
- d. at the end of 180 days in the case of electricity and 120 days in the case of gas after the Commencement Date; or
- e. at the end of the period covered by the second invoice issued by Us, whichever occurs first.

2.4 If the Contract is terminated:

- a. under clause 2.3(b)(i), when You no longer have a right to be reconnected,
- b. under clause 2.3(b)(ii), when the other retailer becomes Responsible for the Premises; or
- c. under 2.3(c), the expiry of any cooling-off period in respect of the new energy contract, termination will be effective on such occurrence as applicable, whichever occurs last.

SPECIAL

3 Energy charges

- 3.1 You must pay Us for the energy We sell to You at the Premises and for any other goods or services We provide to You at the tariffs set out in Our Retail Tariff List.
- 3.2 You must pay Us the amounts We are charged on Your behalf by Your Network Operator for Connection Services and any other goods or services that Your Network Operator provides to You.
- 3.3 If We are permitted to do so under the Energy Retail Code, We may charge You an Additional Retail Charge.
- 3.4 You must pay Us all applicable GST in accordance with clause 13 and all applicable Regulated Charges.
- 3.5 We may amend Your Energy Charges at any time, but no more than once in any 6 month period, by notice published on Our website. If We are required by an Energy Law to do anything further in order to amend Your Energy Charges, We will do so. Any variation to Your Energy Charges will take effect from the date specified in the notice published on Our website and will be notified to You as soon as practicable and in any event no later than Your next invoice.
- 3.6 If Your Energy Charges change during an Invoicing Cycle (whether due to an amendment made by Us under clause 3.5 or because another category of tariff becomes applicable to You under Our Retail Price List), We will calculate the amount payable by You on a pro rata basis and clearly show the relevant details in Your invoice.

4 Notices

We will send You invoices and any notices to the Premises or to any invoicing address supplied by You from time to time. Notices and invoices shall be deemed to be received:

- a. if delivered by post, two (2) business days after the date of posting;
- b. if delivered by fax, on receipt by the sender of a transmission report indicating that the transmission has been made without error;
- c. if delivered by email, on receipt by the sender of a message confirming delivery; or
- d. if delivered by hand before 4.00 pm on a business day at the place of delivery, upon delivery and otherwise on the next business day at the place of delivery.

5 Invoicing Cycle

- 5.1 We will normally send You an invoice for the Energy Charges and any other charges payable by you as set out in clause 3 at least every 3 months in the case of electricity and every 2 months in the case of gas (**Invoicing Cycle**).
- 5.2 You and We may agree an Invoicing Cycle with a regular recurrent period that is less than 3 months in the case of electricity and every 2 months in the case of gas if You provide Your explicit informed consent to do so. We may impose an Additional Retail Charge on You for making the different invoicing cycle available.
- 5.3 Your invoice will contain at least all the information required by the Energy Retail Code.
- 5.4 Your first invoice and final invoice from Us may be for a broken or part period depending on the date We start to sell You electricity under clause 2.2 and/or the date of Your final supply from Us.

6 Payment

- 6.1 You must pay to Us the amount shown on each of Our invoices in full by 5pm on the due date specified in that invoice (**Due Date**). The Due Date will be no less than twelve (12) business days from the date of issue of the invoice.
- 6.2 You can pay Our invoice:
 - a. by direct debit from Your bank or credit union account;
 - b. by mail;
 - c. over the phone by credit card;
 - d. over the counter at Australia Post; and
 - e. via the Internet using BPAY.

- 6.3 You may also choose to pay Our invoices in advance.
- 6.4 If You are a Residential Client, We may charge You an Additional Retail Charge if Your payment is dishonoured or reversed and We incur a fee.
- 6.5 If You are a Residential Client, We will apply a payment received from You to Energy Charges as You direct. If You give Us no direction, We will apply the payment in proportion to the relevant value of those charges.
- 6.6 If You are a Residential Client and We supply You with goods or services in addition to energy and We invoice You for those goods or services in the same invoice as Our invoice for the energy, We will:
- a. include the charges for the goods or services as a separate item in Our invoice and describe them for You; and
 - b. apply a payment received from You as You direct. If You give Us no direction, We will apply the payment first to the supply of energy before applying any part of it to the other goods or services.

7 Late payment

- 7.1 Should You fail to pay Your invoice by the Due Date, and you consume more than 20 MWh of electricity per annum, You may be required to pay a late payment fee.
- 7.2 Any late payment fee will be fair and reasonable having regard to related costs incurred by Us and will not be imposed on You unless and until the ESC has given Us approval to do so.

8 Credit worthiness and refundable advances

- 8.1 You authorise Us to conduct a credit check assessment on You.
- 8.2 If You are a Residential Client, We may require You to provide a Refundable Advance if:
- a. You have left a previous premises or have transferred to Us and still owe the retailer or former retailer more than \$120;
 - b. within the previous two years You have used energy otherwise than in accordance with applicable laws;
 - c. You are a new client and have refused to provide acceptable identification; or
 - d. subject to clause 8.3, We determine that You have an unsatisfactory credit rating, but only if We have first offered You an option to enter into an instalment plan and You have not accepted the offer.
- 8.3 Despite clause 8.2, We may not require You to provide a Refundable Advance on the grounds of an unsatisfactory credit rating if Our determination of that credit rating was based on a relevant default (as defined in the Energy Retail Code) and:
- a. the relevant default relates to an energy invoice in respect of which You have made a complaint in good faith or which You have requested the relevant retailer to review, and that complaint or review has not been resolved or completed;
 - b. We have not assessed You and provided You with assistance as required by the Energy Retail Code; or
 - c. You have formally applied for a Utility Relief Grant and a decision on the application has not been made.
- 8.4 If You are a Business Client, We may require You to provide a Refundable Advance if it is fair and reasonable in the circumstances.
- 8.5 If we require you to provide a Refundable Advance, the amount of the Refundable Advance shall not exceed the maximum amount prescribed by the Energy Retail Code.
- 8.6 We will pay You interest on any Refundable Advance paid to Us at the bank invoice rate and in accordance with the Energy Retail Code.

8.7 We will only use Your Refundable Advance to offset any amount You owe to Us in accordance with the Energy Retail Code.

8.8 We will repay any Refundable Advance (and accrued interest) to You in accordance with the Energy Retail Code.

9 Payment difficulties and assistance

9.1 If:

- a. You anticipate that You will have difficulty paying Your invoices, You must contact Us; or
- b. We believe You are experiencing repeated difficulties in paying Your invoice or require payment assistance we will contact You to discuss how We can help You with a suitable Instalment Plan, referral to a financial counsellor, provision of details concerning government concessions and grants and the provision of efficient use of energy advice.

9.2 If you are a Residential Client, We will not disconnect You if Your failure to pay Our invoice occurs through Your lack of sufficient income until we have assessed Your capacity to pay in accordance with the requirements of the Energy Retail Code and used Our best endeavours to contact You in person or by telephone, and You have not accepted an Instalment Plan within five business days of Our offer.

9.3 If You are a Residential Client and We are required to offer You an Instalment Plan under the Energy Retail Code, We will offer You:

- a. an Instalment plan under which You may make payments in advance towards Your next invoice; and
- b. an Instalment Plan under which You may pay an amount in arrears and continue consumption.

9.4 If You are a Business Client, We will consider any reasonable request by You for an Instalment Plan and may impose an Additional Retail Charge on You if You enter into an Instalment Plan with Us.

10 Shortened collection cycles

10.1 We may place You on a shortened collection cycle if:

- a. We need to send You reminder notices for 3 consecutive invoices or disconnection warnings for 2 consecutive invoices; and
- b. prior to the third reminder notice or second disconnection warning, We give You a notice informing You that upon the receipt of the third reminder notice or second disconnection warning You may be placed on a shortened collection cycle, the consequences of such an occurrence and how to obtain further information to avoid it, in accordance with the Energy Retail Code

10.2 We will give You notice that We have placed You on a shortened collection cycle within 10 business days of doing so.

10.3 If this occurs We will no longer send You reminder notices until You pay 3 consecutive invoices by the Due Date.

11 Actual and estimated readings

11.1 Your invoices will be based on an actual reading of the energy meter at the Premises unless:

- a. We are not able to reasonably or reliably base an invoice on a reading of the meter at the Premises;
- b. You have agreed to be provided with invoices under an Invoice Smoothing Arrangement; or
- c. We are otherwise permitted or required to so under the Energy Law, in which case they will be estimated on Your reading of the Meter, Your prior invoicing history or Our reasonable estimate of Your likely consumption over the invoicing period in accordance with the requirements of the Energy Retail Code.

- 11.2 We will use Our reasonable endeavours to arrange for Your meter to be read as often as is necessary to enable Us to invoice You in accordance with Your Invoicing Cycle. We will read Your meter at least once in any 12 month period (unless We are prevented from doing so by some event beyond Our control).
- 11.3 If We subsequently read Your meter, otherwise receive a reliable meter reading, or receive other updated substitute data determined in accordance with the requirements of the Energy Law, We will adjust any estimated invoice (other than those issued under an Invoice Smoothing Arrangement) in accordance with the meter reading or the updated data and clause 12.

12 Adjustments

- 12.1 If We undercharge or fail to charge You, We may recover the undercharged amount from You subject to the following conditions:
- a. unless the Energy Retail Code permits Us to do so, (such as in the case of fraud):
 - i. if the undercharging resulted from a failure of Our invoicing systems, We may recover no more than the amount undercharged in the 9 months prior to the date on which We notify You that undercharging has occurred; and
 - ii. otherwise, We may recover no more than the amount undercharged in the 12 months prior to the date on which We notify You that undercharging has occurred;
 - b. to the extent necessary, the amount undercharged will be calculated in proportion to relevant periods between dates on which Your meter has been read;
 - c. We can either list the amount to be recovered as a separate item in a special invoice or in Your next invoice together with an explanation of the amount;
 - d. We will not charge You interest on the amount undercharged; and
 - e. You can elect to pay the amount undercharged in a payment arrangement covering a period at least equal to the period over which the recoverable undercharging occurred.
- 12.2 If We overcharge You:
- a. by an amount of \$50 or less, We will credit the amount to the next invoice issued to You after We become aware of the overcharging;
 - b. by an amount exceeding \$50, We will inform You within 10 business days after becoming aware of the overcharging and will repay any amount overcharged by crediting Your next invoice or as otherwise reasonably directed by You.

13 GST

- 13.1 In this clause:
- a. An expression or word used in this clause which has a particular meaning in the GST Law, or in any applicable legislative determinations, has the same meaning, unless the context otherwise requires; and
 - b. A reference to GST payable by a party includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.
- 13.2 Unless GST is expressly included, any amount payable under this Contract for any supply made under or in connection with this Contract does not include GST.
- 13.3 To the extent that any supply made under or in connection with this Contract is a taxable supply, the GST exclusive consideration otherwise payable or provided for that taxable supply is increased by an amount equal to that consideration multiplied by the rate at which GST is imposed in respect of the taxable supply, and subject to receipt of an effective tax invoice, is payable at the same time.

- 13.4 If for any reason (including, without limitation, the occurrence of an adjustment event) the amount of GST paid on a taxable supply (taking into account any decreasing or increasing adjustments in relation to the taxable supply) varies from the GST paid by You:
- a. We must provide a refund or credit to You, or You must pay a further amount to Us, as appropriate, at the same time as the GST exclusive component of the adjustment is refunded or paid;
 - b. the refund, credit or further amount (as the case may be) will be calculated by us in accordance with the GST Law; and
 - c. We must notify You of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. If there is an adjustment event in relation to the supply, Our requirement to notify You will be satisfied by us issuing to you an adjustment note within 14 days after becoming aware of the occurrence of the adjustment event.
- 13.5 Each party agrees to do all things, including providing tax invoices and other documentation, that may be necessary or desirable to enable or assist the other party to claim any input tax credit, adjustment or refund in relation to any amount of GST paid or payable in respect of any supply made under or in connection with this Contract.
- 13.6 If a payment to a party under this Contract is a payment by way of reimbursement or indemnity and is calculated by reference to the GST inclusive amount of a loss, cost or expense incurred by that party, then the payment is to be reduced by the amount of any input tax credit to which that party is entitled in respect of that loss, cost or expense before any adjustment is made for GST pursuant to clause 13.3.

14 Review of invoice

- 14.1 If You disagree with the invoice, You must advise Us of the portion of the invoice in dispute. We will review the invoice at Your request. You agree to pay Us any portion of the invoice under review that You agree with Us is not in dispute or an amount equivalent to the average amount of Your invoices in the previous 12 months (whichever is the lower).
- 14.2 If the invoice under review is:
- a. correct, You must either:
 - i. pay Us the unpaid amount; or
 - ii. request Us to arrange a meter test in accordance with the Energy Law. If Your meter is found to comply with the Energy Law, You must pay Us the unpaid amount and the cost of the test; or
 - b. incorrect, We will adjust the invoice in accordance with clause 12.

15 Metering

We will supply or contract for the installation of the meter unless a meter already exists at the Premises. The meter will remain Our property or the property of the installer as the case may be. You must not remove, destroy or otherwise interfere with the meter.

16 Access

- 16.1 You must allow Us (or our representative) unhindered and convenient access to Your Premises during the term, and for a reasonable period of time after termination of this Contract to read the meter, to connect, disconnect or reconnect Your supply, to carry out maintenance and test electrical or gas equipment on the distribution system, or to otherwise assist Us to comply with Our obligations under this Contract and the Energy Law.
- 16.2 You must advise Us immediately if You become aware of a potential safety hazard at Your Premises and provide Us or Our representative with adequate protection against that hazard.
- 16.3 If You deny Us access to read the meter and later request an invoice based on an actual meter reading We may charge You an Additional Retail Charge for complying with Your request.

17 Disputes

- 17.1 You may refer a complaint or dispute to Us for internal resolution and We will deal with the matter in accordance with the Australian Standard on Complaints Handling.
- 17.2 If You are not satisfied with Our response You may refer the complaint to a higher level within Our management structure. If You are still not satisfied with the response, You may refer the matter to:
- a. the Energy and Water Ombudsman of Victoria; or
 - b. any other relevant external dispute resolution body.

18 Disconnection

- 18.1 We may disconnect or interrupt Our energy supply to You if You:
- a. have not paid Your invoice in relation to the Premises by the Due Date and:
 - i. the Energy Retail Code does not state that We cannot arrange for Your disconnection in those circumstances (including where We are assisting you with Your payment difficulties in under clause 9); and
 - ii. You have received the appropriate reminder notices and disconnection warnings from Us in the form of and at the times referred to in the Energy Retail Code and do not agree to an alternative payment arrangement or do not make payments under such a new payment arrangement;
 - b. refuse to pay a Refundable Advance and We have complied with all applicable pre-conditions referred to in the Energy Retail Code;
 - c. refuse to allow the meter to be read for 3 consecutive invoicing periods and We have complied with all applicable pre-conditions referred to in the Energy Retail Code;
 - d. refuse, when required, to provide acceptable identification (if You are a new client of Ours) and We have complied with all applicable pre-conditions referred to in the Energy Retail Code;
 - e. request that Your supply be disconnected.
- 18.2 We may disconnect the supply of energy to You if the connection is not safe.
- 18.3 We will not disconnect You:
- a. if You are a Residential Client for non-payment of a invoice where:
 - i. the amount payable is less than \$120; or
 - ii. You have formally applied for a Utility Relief Grant and a decision on Your application has not been made; or
 - b. for non-payment of an invoice if:
 - i. You have made a complaint directly related to the non-payment of the invoice to the Energy and Water Ombudsman of Victoria or another external dispute resolution body and the complaint remains unresolved; or
 - ii. if the only charge You have not paid is not a charge for the supply or sale of electricity or gas;
 - c. if Your Premises have been registered with Your Network Operator as requiring a life support machine in the case of electricity or as requiring a medical exemption in the case of gas;
 - d. after certain times on certain days as specified in the Energy Retail Code.
- 18.4 If We disconnect the supply of Energy to the Premises and fail to comply with the terms and conditions of this Contract specifying the circumstances in which the supply of Energy to the Premises may be disconnected, We will pay You compensation for that wrongful disconnection in accordance with the Energy Law.

19 Reconnection

- 19.1 If We have disconnected You as a result of:
- a. non-payment of a invoice, and within 10 business days of disconnection either:
 - i. You pay the invoice or agree to a payment arrangement; or
 - ii. being eligible for a Utility Relief Grant, You apply for such a grant;
 - b. Your meter not being accessible, and within 10 business days of disconnection You provide access or make available reasonable access arrangements;
 - c. You obtaining supply otherwise than in accordance with Applicable Laws, and within 10 business days of disconnection that ceases and You pay for the supply so obtained or agree to a payment arrangement; or
 - d. You refusing to provide acceptable identification or a Refundable Advance, and within 10 business days of disconnection You provide it;
- on request, but subject to Applicable Laws and You paying any reconnection charge, We will reconnect You.
- 19.2 If You make a request for reconnection under clause 19.1:
- a. before 3 pm on a business day, We will reconnect You on the day of the request; or
 - b. after 3 pm on a business day, We will reconnect You on the next business day or, if the request also is made before 9pm and You pay any applicable additional after hours reconnection charge, on the day requested by You.

19.3 We and You may agree that later times are to apply.

20 Vacating premises

- 20.1 You must give Us notice of the date on which You intend to vacate (or did in fact vacate) the Premises together with a forwarding address where We can send You Your final invoice.
- 20.2 You will cease to be responsible for the energy consumed at the vacated Premises:
- a. at the later of: three (3) business days after giving Us notice
 - i. of Your vacation of the Premises; or
 - ii. the date on which You vacate the Premises; or
 - b. if You demonstrate to Us that You were evicted or otherwise forced to vacate the Premises, the date on which You give Us notice under clause 20.1;
 - c. if We enter into a new energy contract for the Premises with another client, the date on which the obligation to pay for energy under the new energy contract is effective;
 - d. if another retailer becomes Responsible for the Premises, the date on which the other retailer becomes so Responsible; and
 - e. if the Premises are disconnected, the date on which the Premises are disconnected;
 - f. if You and We have an energy contract for another premises, We may include in an invoice for energy consumed at that other premises the amount payable for energy consumed at the vacated Premises.

21 Our responsibility for energy supply

- 21.1 You acknowledge that Your Network Operator is responsible for the supply of energy to the Premises. We do not guarantee the quality, frequency or pressure or continuity of supply of energy to You.
- 21.2 We will arrange for the supply of Connection Services to Your Premises by Your Network Operator in accordance with the Energy Law unless You request otherwise.

22 Your obligations to the Network Operator

- 22.1 You agree to comply with all reasonable requirements of the Network Operator in complying with the requirements of the Energy Law in supplying energy to You and in particular to comply with the provisions of the Distribution Code, which also imposes obligations on You.

- 22.2 You acknowledge that We are not responsible for any disconnection, interruption or reduction in the supply and/or quality of energy, variation in electricity voltage, reduction in gas pressure or frequency of the supply.
- 22.3 You agree to ensure that Your actions and equipment do not adversely affect the distribution network, the meter, or the quality of supply to other clients.
- 22.4 You must ensure that Your Premises remain physically connected to the distribution network. You agree that We are not responsible for Your physical connection to the distribution network.

23 Liability

- 23.1 Notwithstanding any other provision of this Contract, nothing in this Contract is to be read as excluding, restricting or modifying the application of any legislation which by law cannot be excluded, restricted or modified.
- 23.2 Except as expressly set out in this Contract, any representation, warranty, condition or undertaking which would be implied in this Contract by law, is excluded to the maximum extent permitted by law.
- 23.3 Our liability, if any, under this Contract is limited to the maximum extent permitted by section 64A of the Australian Consumer Law. That is, in relation to the supply of goods or services not of a kind ordinarily acquired for personal, domestic or household use or consumption, Our liability for breach of this Contract is limited to (at Our option):
- a. in the case of goods being energy:
 - i. the replacement of the energy or the supply of equivalent energy; or
 - ii. the payment of the cost of replacing the energy or of acquiring equivalent energy; or
 - b. in the case of services:
 - i. the supply of the service again; or
 - ii. the payment of the cost of having the services supplied again.
- 23.4 You acknowledge that the terms of this Contract do not represent a waiver by Us of, or an agreement to vary or exclude, any limitation of Our liability under an Energy Law including:
- a. sections 119 or 120 of the National Electricity Law or section 117 of the **Electricity Industry Act 2000**; and
 - b. sections 232 or 233 of the Gas Act and section 33 of the **Gas Safety Act 1997** (Vic.).
- 23.5 Business Clients must take reasonable precautions to minimise the risk of loss or damage to any equipment, premises or business of the Business Client, which may result from poor quality, or reliability of energy supply.

24 Privacy and confidentiality

- 24.1 We respect Your privacy. However, to assist Us in the provision of electricity and other products and services to You We may need to collect Personal Information about You.
- 24.2 We reserve the right to use Your Personal Information in a manner not inconsistent with Our obligations under the **Privacy Act 1988** (Cth) or any other Applicable Law and in accordance with our Privacy Policy as varied from time to time. Our Privacy Policy may be viewed on Our website.
- 24.3 From time to time We may provide You with promotional material. If You do not wish to receive this material, please let Us know.
- 24.4 We may disclose Your Personal Information to organisations We engage to assist Us with delivering energy to You, including debt collecting agencies, authorised representatives and government or regulatory authorities.

- 24.5 We may disclose Your Personal Information to a credit reporting agency if you fail to pay your invoice and we have complied with the Credit Reporting Code of Conduct published under the **Privacy Act 1988** (Cth).
- 24.6 We may contact You as part of Our ongoing quality assurance program within 14 business days of You contracting with Us or when You terminate Your contract with Us.
- 24.7 You can request access to the Personal Information We hold about You at any time by writing to Us.

25 Information

- 25.1 You must inform Us as soon as possible of any change to Your details.
- 25.2 We will on request give You a copy of the Energy Retail Code and if You are a Residential Client, a copy of Our client charter.
- 25.3 We will on request provide You with:
- reasonable information on tariffs We may offer You within 10 business days of Your request (and if You request it, in writing);
 - energy efficiency advice;
 - information on network charges, retail charges and any other charges relating to the sale or supply of energy comprised in the amount payable under Your invoice;
 - any of Your historical invoicing data retained by Us for any period nominated by You.
- 25.4 If You are a Residential Client, We will on request provide You with information regarding all concessions, rebates and grants which may be available to You.
- 25.5 In some circumstances We may ask You to pay an Additional Retail Charge for providing this information or these documents.

26 Assignment

- 26.1 You may not assign this Contract without Our prior written consent.
- 26.2 We may assign, or otherwise dispose of the whole or any part of Our interest in this Contract to a person who acquires all or a substantial portion of the assets of Our business of retailing energy without Your prior consent.

27 Variation

- 27.1 If We wish to amend this Contract, We can do so by law without Your prior consent, by notice published on Our website. If We are required by an Energy Law to do anything further in order to amend Your this Contract, We will do so. Any variation to Your Contract will take effect from the date specified in the notice published on Our website and will be notified to you in or with your first invoice after the variation takes effect.

28 Force Majeure

- 28.1 The obligations of the parties under this Contract shall be suspended (except the obligation to pay any money owing), to the extent to which they are affected, if that failure or delay is due to any cause or condition beyond the reasonable control of that party (**Force Majeure Event**) for as long as the Force Majeure Event continues.
- 28.2 The party affected by a Force Majeure Event must give the other prompt notice of that fact including full particulars of the Force Majeure Event, an estimate of its likely duration, the obligations affected by it and the extent of its effect on those obligations and the steps taken to remove, overcome or minimise its effects.
- 28.3 If the effects of a Force Majeure Event are widespread, We will be deemed to have given You prompt notice in accordance with clause 28.2 if We make the necessary information available by way of a 24 hour telephone service within 30 minutes of being advised of the Force Majeure Event or otherwise as soon as practicable.

- 28.4 The party affected by a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of the Force Majeure Event as quickly as possible except that this does not require the party to settle any industrial dispute.

29 General

- 29.1 Each party must comply at their own cost with the requirements of any Energy Law expressed to apply to that party.
- 29.2 Other than any additional obligations imposed on both parties by the Energy Retail Code, this Contract represents the entire Contract between You and Us and supersedes all prior arrangements or understandings between You and Us.
- 29.3 Clauses 3, 4, 6, 7, 8.8, 11.3, 16, 23, 24 and 29.6 will survive termination of this Contract.
- 29.4 If any term or clause of this Contract is or becomes invalid or is unenforceable, then the other terms will remain valid and will be unaffected for the duration of this Contract.
- 29.5 If We do not exercise Our rights under this Contract it will not constitute a waiver of those rights.
- 29.6 If You have consumed energy fraudulently or not in accordance with Applicable Law, We may recover from You any amount which We reasonably estimate constitutes the amount by which We have not charged or undercharged You.
- 29.7 This Contract shall be governed and construed in accordance with the laws of the State of Victoria.

30 Interpretation

- 30.1 In this Contract, reference to:
- a. the singular includes the plural and the plural includes the singular;
 - b. a person includes a body corporate;
 - c. a party includes the party's executors, administrators, successors and permitted assigns and if a party consists of more than 1 person, this Contract binds each of them separately and any 2 or more of them jointly;
 - d. a statute, regulation, code or other law or a provision of any of them includes:
 - i. any amendment or replacement of it; and
 - ii. another regulation or other statutory instrument made under it, or made under it as amended or replaced;
 - e. 'Including' and similar expressions are not words of limitation;
 - f. Headings and any table of contents or index are for convenience only and do not form part of this Agreement or affect its interpretation;
 - g. any capitalised term which is not defined in clause 31 but which is defined in the Energy Retail Code will have the meaning given by the Energy Retail Code.

31 Dictionary

Additional Retail Charge means a charge relating to the sale of energy by Us to You other than a charge based on a tariff applicable to You and which must be fair and reasonable having regard to related costs incurred by Us.

Applicable Law means all regulations, codes, statutes, guidelines, licences, legislation, orders in council, tariffs, proclamations, direction or standards applicable to parties in Victoria .

Australian Consumer Law means Schedule 2 to the Competition and Consumer Act 2010.

Business Client, means a client who is not a residential client.

Connection Services means all services provided by the Network Operator from time to time in respect of the Premises for use of the distribution or transmission network.

Contract means the terms and conditions set out in this document.

Distribution Code means the Electricity Distribution Code or the Gas Distribution System Code or both, as the context requires as published by the ESC and amended from time to time.

Dual Fuel Contract means an energy contract for the sale of electricity and for the sale of gas by a retailer to a client under which invoicing cycles for electricity and gas are synchronised.

Energy Charges means those charges payable under clause 3.1.

Energy Law means all rules, regulations, codes, statutes, guidelines, licences, legislation, orders in council, tariffs, proclamations, direction or standards, including the Energy Retail Code that regulate participants of the energy industry in Victoria as varied or replaced from time to time.

Energy Retail Code means the Victorian Energy Retail Code as published by the ESC and amended from time to time.

ESC means the Essential Services Commission of Victoria or its successor.

Explicit Informed Consent means consent that is informed and given by a person competent to give it in a manner that accords with the requirements of the Energy Retail Code.

GST means GST as defined in GST Law.

GST Law means **A New Tax System (Goods and Services Tax) Act 1999** as amended from time to time or any replacement or other relevant legislation and regulations.

Instalment Plan means an instalment plan that meets the requirements of the Energy Retail Code.

Invoice Smoothing Arrangement means an invoicing arrangement where:

- a. upon receiving Your Explicit Informed Consent, You are provided with estimated invoices for the same amount over a 12 month period;
- b. each invoice is based on Your historical invoicing information for the preceding 12 month period (where available) and is otherwise based on the average consumption at the relevant tariff for a 12 month period;
- c. the initial estimated amount will be re-evaluated in the sixth month of every 12 month period to ensure that it is within 10% of Our forecasted estimate of Your usage; and
- d. at the end of the 12 month period, We will obtain a meter reading and adjust any over or under estimating of Your invoices in accordance with clause 12.

Network Operator means the entity that operates the distribution or transmission network used to deliver energy to the Premises.

Personal Information means information or opinion about You from which Your identity is apparent or can be reasonably ascertained.

Premises, means the premises where you take supply from Us.

Refundable Advance means an amount of money or other arrangement acceptable to Us which You pay Us as security against You failing to pay an invoice as set out in clause 8.

Regulated Charges means all charges, fees and or levies imposed by any regulatory body, government or market operator.

Residential Client means a client who purchases energy principally for personal, domestic or household use.

Responsible means responsible as defined in the Energy Retail Code.

Retail Tariff List means the list of tariffs determined by Us and published in the Government Gazette, available on Our website as amended from time to time.

LUMO ENERGY AUSTRALIA PTY LTD
ABN 69 100 528 327

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