

STANDARD TERMS AND CONDITIONS

1. YOUR AGREEMENT

1.1 What comprises your Agreement

- These Standard Terms and Conditions;
- the Disclosure Document; and
- any Electricity Supply Agreement that you may choose to enter into.

form your Agreement containing the terms and conditions on which we agree to supply and sell you electricity and you agree to buy electricity from us.

These documents set out our obligations as an Exempt Seller under the National Retail Energy Law and your rights and obligations as our customer. These documents contain defined terms which are set out at the end of these Standard Terms and Conditions (or in the text of these Standard Terms and Conditions).

1.2 How the electricity supply within Sydney Markets works

All electricity within the Markets is transmitted and distributed using our privately owned embedded network (**Network**). We purchase electricity from a distributor in bulk and onsell this electricity to you and other occupiers in the Markets.

Under the National Energy Retail Law, all onselling within a private network must be undertaken by:

- (a) an authorised retailer (**Retailer**); or
- (b) the holder of retailer exemption (**Exempt Seller**),

registered with the Australian Electricity Regulator .

We are registered as an Exempt Seller.

1.3 Assumptions

We have entered into this Agreement with you based on some assumptions and information known to us at the time of offer, for example, the amount of electricity to be consumed at your Premises. If any of this information is found to be incorrect, we will make a revised offer to you in writing to reflect the correct information. You will have an opportunity to either accept or reject the revised offer. If we are not able to make you a revised offer (because we do not support

the meter set up at your Premises) then we will notify you of this and this Agreement will terminate.

2. THE START AND END OF YOUR AGREEMENT

2.1 Term

Unless you enter into an Electricity Supply Agreement, you agree to purchase your electricity from us on a month to month basis.

If an Electricity Supply Agreement for a fixed term is entered into between us and you, then the term of this Agreement is for the duration of the fixed term set out or referred to in that Electricity Supply Agreement unless terminated earlier in accordance with this Agreement.

2.2 Commencement date

This Agreement commences on the date your Lease commences (unless you choose to purchase your electricity from another Retailer).

2.3 Expiry date

If you are on an Electricity Supply Agreement, we will notify you in writing prior to the expiry of this Agreement. This notice (**Renewal Notice**) will provide you with information on, among other things, the date your Agreement will expire, the electricity supply options available to you when the term of your Agreement expires and the consequences for you if you do not enter into a new Electricity Agreement.

If you have not responded to our Renewal Notice before the end of your Electricity Supply Agreement, following the expiry of this Agreement our arrangements will automatically continue on a new Electricity Supply Agreement on the terms and conditions (including any fixed term) and tariff set out in our Renewal Notice to you.

If you choose to transfer to another Retailer but this transfer has not occurred before the expiry of your Electricity Supply Agreement, following the expiry of your Electricity Supply Agreement our arrangements will continue on the terms and conditions of this Agreement until another Retailer becomes responsible for your Premises under the Relevant Laws.

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3. YOUR RIGHTS TO TERMINATE THIS AGREEMENT

3.1 Termination

You can terminate this Agreement at any time by providing us with at least 20 Business Days notice.

If you are on an Electricity Supply Agreement and your Agreement is terminated by you before its expiry date, you will have to pay the Early Termination Fee specified in the Pricing Schedule.

The Early Termination Fee will be payable within 10 Business Days of us sending you a final bill. The Early Termination Fee is calculated by reference to the actual costs of the early termination of the Agreement, and do not include matters such as lost supply or lost profits.

3.2 Network Charge

If you terminate this Agreement (regardless of whether you enter into another agreement with a Retailer) you must continue to pay the Network Charge during the term of your Lease.

You acknowledge that this charge represents our costs of operating and maintaining our network, including the wiring and other infrastructure within the Markets.

3.3 Transferring to another Retailer

If you wish to transfer to another Retailer at your Premises, you (or your new Retailer on your behalf) must, in accordance with clause 3.1 above, notify us in writing at least 20 Business Days before you wish to terminate this Agreement and transfer your electricity supply. Your transfer will be arranged in accordance with the Relevant Laws.

3.4 Our rights to terminate

We can, in accordance with the Relevant Laws, terminate this Agreement.

3.5 How else can this Agreement be terminated?

This Agreement is otherwise terminated if:

- you enter into a new Agreement with us that replaces this Agreement; or

- a different customer starts to buy electricity for the Premises.

3.6 Timing of termination

The termination of this Agreement is not effective until:

- if this Agreement is terminated because you enter into a new Agreement with us;
- if this Agreement is terminated because you transfer to another Retailer for your Premises, when the other retailer becomes responsible for that address under the Relevant Laws;
- if this Agreement is terminated because a different customer starts to buy electricity for the Premises, when that customer's Agreement starts; or
- if your Premises is disconnected by us in accordance with the Conditions and you have not met the requirements in the Conditions for reconnection, 10 Business Days from the date of the disconnection.

3.7 What you must pay on termination

If this Agreement is terminated, we will send you a final bill containing any outstanding payments owing to us as well as the Early Termination Fee (if applicable). You must pay this final bill within the timeframe specified in the bill. This clause survives termination of this Agreement.

4. BILLING AND PAYMENT

4.1 What you will be charged

The tariffs and charges for the sale of electricity to you under this Agreement are based on the tariffs set by IPART. These tariffs and Additional Service Charges are found in the Pricing Schedule which is attached to the Disclosure Document and is also available on our website at <http://sydneymarkets.com.au>

Different tariffs and charges will apply to you, depending on your consumption and whether you enter into an Electricity Supply Agreement.

You agree to pay us the tariff and the fees and charges as set out in the Pricing Schedule. Unless otherwise specified in the Pricing Schedule, the tariff you agree to pay for electricity consumed under this Agreement is a variable tariff. You acknowledge and agree that we may

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vary your variable tariff, Additional Services Charges, Network Charge or other charges by providing you with written notice. The notice will be given to you as soon as practicable before the tariff change and, in any event, not later than your next bill.

4.2 Meter upgrade fee

If we are required to upgrade your meter under the Relevant Laws, we may also charge you a meter upgrade fee and you agree to pay us that fee on demand within 7 days.

4.3 Estimated consumption

Unless you agree otherwise, we will base your bill on a reading of your meter. At a minimum, we will read your meter once in each 12 month period. However, if we are unable to read your meter because of reasons outside our control (for example, because you do not give us safe access to the meter or we are unable to reliably base your bill on a reading of the meter), we can estimate the energy you have consumed during the period in accordance with Relevant Laws. You will be notified on your bill if this occurs. If you have been responsible for us being unable to read the meter and you later request an actual reading you will be charged an Additional Service Charge for this read.

If we have estimated the energy you have consumed at your Premises, but later get reliable information, we will adjust your account in accordance with the Conditions.

4.4 Illegal consumption of electricity

You must not take electricity illegally or tamper with or bypass your meter or associated equipment. If you do and we have not yet charged you or have undercharged you, we will estimate the consumption for which you have not paid and may take debt recovery action for all of the unpaid amount and any disconnection and reasonable legal costs. If your actions result in damage to our equipment, we may recover from you the costs of repair or replacement of that equipment together with reasonable investigation and costs of disconnection and legal costs.

4.5 Undercharging

If we have undercharged you, we may recover the

undercharged amount from you. If we recover an undercharged amount from you we will:

- not charge interest on the undercharged amount; and
- offer you time to pay the undercharged amount in instalments over the same period of time during which you were undercharged (if less than 12 months), or otherwise over a 12 month period.

The maximum amount we can recover from you is limited to the amount that has been undercharged in the 9 months immediately before we notify you, unless the undercharge is your fault, or results from your unlawful act or omission.

4.6 Overcharging

If we become aware that you have been overcharged, we will inform you within 10 business days of becoming aware of the overcharging.

Where you have been overcharged by less than \$25, and you have already paid the overcharged amount, we must credit that amount to your next bill. We will not pay interest on the overcharged amount.

Where you have been overcharged by \$25 or more, we must refund the amount to you if requested, or if no such request is made, we must credit the amount to your next bill.

If you have transferred to another Retailer or have vacated the Premises, we will use our best endeavors to pay the overcharged amount to you within 10 Business Days.

If you have been overcharged as a result of your own fault or unlawful act or omission, we may limit the amount we credit or pay you to the amount you were overcharged in the last 12 months.

4.7 Your Bill

We will issue your bill at least once every 3 months. Your bill will include information required by the Conditions such as:

- your name, account number, premises and mailing address (if different);
- date the account was issued;
- the period covered by the bill;

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- the applicable tariffs, fees and charges and the basis on which the tariffs, fees and charges are calculated;
- details of the meter reading (or, if applicable, estimations) and the estimated date of your next scheduled reading;
- the total amount of electricity consumed (or, if applicable, estimated consumption) in the period and your average daily consumption during the period;
- the amount payable by you and the due date;
- a telephone number for billing and payment enquiries;
- the amount of arrears or credit on your electricity account;
- details of charges derived from a proportion of your usual billing period; and
- the identifier for the meter at the Premises (if available).

If any of your contact details change, you must tell us as soon as possible.

4.8 Reviewing your bill

If you disagree with the amount you have been charged, you can ask us to review your bill in accordance with our standard practices applicable at that time.

If you ask us to, we must arrange for a check of the meter reading or metering data or for a test of the meter in reviewing the bill. You will be liable for the cost of the check or test and we may request payment in advance. However, if the meter or metering data proves to be faulty or incorrect, we must reimburse you for the amount paid.

If your bill is being reviewed, you are still required to pay any other bills from us that are due for payment and the lesser of:

- the portion of the bill that you do not dispute; or
- an amount equal to the average of your bills in the last 12 months.

4.9 Payment

You must pay to us the amount shown on each bill by the date for payment (**pay-by date**) on the bill. The pay-by date will be no earlier than 13

Business Days from the date on which we issue your bill.

4.10 How to pay

The payment methods for your bill will be set out on your bill.

Unless otherwise agreed, you can pay by:

- telephone (credit card); and
- direct debit.

Before you can pay by direct debit you must complete a direct debit request which sets out the details of the direct debit. If we cease to be your electricity supplier, we will cancel any direct debit arrangements with you.

4.11 Security Deposit

If you have provided a security deposit (or bank guarantee as the case may be) or other security under your Lease (**Security Deposit**), you acknowledge and agree that we have the right to use the Security Deposit to offset any amount owed to us under this Agreement.

We may use your Security Deposit, and any interest earned on the Security Deposit, to offset any amount you owe us under this Agreement:

- if you fail to pay a bill and as a result we arrange for the disconnection of your Premises; or
- in relation to a final bill (ie. a bill we issue when you vacate the Premises or when you stop purchasing electricity from us at your Premises or when you request that your Premises be disconnected).

We will otherwise deal with your Security Deposit in accordance with the relevant provisions in the Lease.

5. DISCONNECTION AND RECONNECTION

5.1 How to disconnect

You may request disconnection of your electricity supply at your Premises at any time.

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5.2 How we can disconnect

Subject to us satisfying the requirements in the Conditions, we may arrange for the disconnection of your Premises if:

- you have requested the disconnection; or
- continuity of supply to the premises would be unsafe; or
- your Lease has ended and you are vacating your Premises.

5.3 Notice and warning

Before disconnecting your Premises, we will comply with relevant reminder and warning notice requirements and other provisions in the Conditions and Relevant Laws (if any). However, we are not required to provide a warning notice prior to disconnection in certain circumstances (for example, where there is an emergency or health and safety issue).

5.4 When we must not disconnect you

(a) Subject to us satisfying the requirements in the Conditions, and subject to clause 5.3(b), your Premises may not be disconnected during the following times (**protected period**):

- on a Business Day before 8am or after 3pm;
- on a Friday or the day before a public holiday;
- on a weekend or a public holiday;
- on the days between 20 December and 31 December (both inclusive) in any year; or

(b) Your Premises may be disconnected within the protected period:

- for reasons of health and safety;
- in an emergency;
- as directed by a relevant authority;
- if you request us to arrange disconnection within the protected period;
- where the Premises are not occupied.

5.5 Reconnection after disconnection

(a) We must reconnect your Premises as soon as practicable if, within 10 Business Days of your Premises being disconnected:

- you ask us to arrange for reconnection of your Premises;
- you rectify the matter that led to the disconnection; and
- you pay any reconnection charge (if requested).

(b) We may terminate this Agreement within 10 Business Days following disconnection if you do not meet the requirements in clause 5.5(a).

6. METER AND ACCESS

6.1 Ownership of meter

You have no proprietary interest in the meter at your Premises.

6.2 Access to meter

You must give us and our representatives safe, convenient and unhindered access to your Premises and the meter (and associated equipment) for any purpose associated with the supply, metering or billing of electricity (for example, to read your meter and for connection, disconnection and reconnection of your electricity supply).

You must inform us of any change affecting access to the meter or associated equipment as soon as practicable.

6.3 Your obligations in respect the meter

It is your responsibility to:

- keep your meter clear of all hazards and interference;
- not in any way tamper with, permit tampering with, or otherwise interfere with the meter or associated equipment;
- at all times keep your meter and any ancillary equipment and connections in good condition and repair; and
- comply with the our requirements (if any).

6.4 Faults

If you think your meter is faulty, you should immediately notify us and you may request a meter test. If you request the meter be tested and the test shows the meter is not defective, you will be responsible for the cost of the test. Otherwise, we will bear the cost. Before undertaking a test, we may seek payment from you of anticipated costs to carry

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out the test, in accordance with the Relevant Laws, and will reimburse you these amounts where the meter is found to be defective.

7. VACATING YOUR PREMISES

7.1 What you must pay

You must notify us on the date you intend to vacate or did vacate your Premises. As a general rule, you must pay us for electricity consumed at the Premises until the later of the date on which you vacate the Premises.

You must also provide us with a forwarding address for the final bill. We also have the right to charge you an Early Termination Charge if you are on an Electricity Supply Agreement.

7.2 Moving to another premises within the Markets

If you move into a different Premises within the Markets we assume you will wish us to continue to supply electricity to you at that new Premises unless you notify us otherwise. We will arrange for the supply of electricity to the Premises to be connected as soon as possible. We may charge you a connection fee.

If you are on an Electricity Supply Agreement, we may offer you the opportunity to transfer your existing Electricity Supply Agreement to your new Premises without the need to enter into a new Electricity Supply Agreement with us. We may vary your tariffs (including the network charge) to reflect the tariffs applicable to your Premises.

If we vary the tariffs, we will confirm your new tariffs to you by a notice together with your new details such as your new Premises and its meter identifier (if available). This notice will be given to you as soon as possible, and in any event, not later than your next bill.

8. LIMITS TO OUR LIABILITY

You acknowledge that:

- (a) the quality, frequency, voltage and continuity of electricity, is subject to a variety of factors outside our control;
- (b) except as required by law, we do not guarantee you, and we make no representation as to, the quality, frequency or the continuity of any electricity supplies to you; and
- (c) this Agreement does not in any way vary or exclude the operation of our rights or immunities under the

Relevant Laws.

There may be statutory guarantees, implied conditions or warranties under consumer protection laws that cannot be excluded, which may apply to our supply of electricity supplies to you.

Our liability to you for breach of any statutory guarantees or other conditions, warranties or rights under the *Competition and Consumer Act 2010* (Cth) or any other equivalent law is limited to the maximum extent permitted by those laws. In particular, in respect of our supply to you of any goods or services of a kind other than goods or services ordinarily acquired for personal, domestic or household use or consumption, our liability for a breach of any statutory guarantee or other condition, warranty, representation or right under those laws will be limited to:

- providing to you equivalent goods or replacement goods;
- payment of the cost of replacing the goods or acquiring equivalent goods;
- re-supplying the service; or
- the payment of the cost of having the services supplied again, provided that it is fair and reasonable to do so.

Notwithstanding any other provision of this Agreement and to the extent permitted by all Relevant Laws, we exclude all liability to you for any and all loss, damage, cost, expense (including legal costs), liability or claim, incurred by you, whether arising directly or indirectly, including (but not limited to) loss of use, loss of production, loss of profit, loss of income, loss of opportunity, loss of anticipated saving, or for any delay, financing costs or increase in operating costs and any other consequential loss, that arises as a result of or in connection with the quality, frequency, voltage or continuity of electricity.

You must indemnify us for any breach by you of this Agreement or your negligence in relation to this Agreement to the maximum amount which we are entitled to be compensated under the common law (including in equity) or statute.

9. FORCE MAJEURE

A force majeure event is an event outside the reasonable control of you or us which would result in you or us (the **affected party**) being in breach of this Agreement. If a force majeure event occurs, the affected party will not be in breach of this Agreement for non performance of its obligations that are affected by the force majeure event for as long as the force majeure event continues. The affected party must notify the other party promptly of the force

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majeure event giving full particulars of it, an estimate of its likely duration, the obligations under this Agreement that are affected by it and the extent of its effect on those obligations and the steps taken to remove, overcome or minimise its effects.

The affected party must use its best endeavours to remove, overcome or minimise the effects of the force majeure event as quickly as possible (although neither you nor us are required to settle any industrial dispute if that is the force majeure event).

If the effects of the force majeure event are widespread we will give you notice by making the necessary information available by way of a telephone service as soon as possible of being advised of the widespread force majeure event, or otherwise as soon as practicable.

10. INFORMATION AND ENQUIRIES

10.1 Complaints

We will use our best endeavours to make sure that your service is as you would expect. If however you do have a problem, please call our customer service team and we will review any complaint, whether made in writing or orally. Please give us your reasons for seeking a review of our actions. We will use our reasonable endeavors to resolve your problem.

If you are unsatisfied with our response, you may also refer any complaint or dispute about our service to the relevant electricity ombudsman, whose details are provided in clause 17 of this Agreement and in the Disclosure Document.

10.2 Faults and Emergencies

If you experience a supply fault or failure, you should call the faults and emergencies number on your bill and on the Disclosure Document.

10.3 Other Information

You may call on (02) 9325 6255 if you have a query, complaint or would like additional information on:

- your account and how to pay;
- electricity efficiency;
- your historical billing information (where we have the information).
- any of our Additional Service Charges; and

- our tariffs, fees and charges.

11. GENERAL

11.1 Variation

We may vary this Agreement (including your tariff) at any time by providing you with reasonable notice.

All notices under this Agreement must be given in writing and given by hand, by fax, by mail or by email to the last address we have for each other.

11.2 Assignment

We may assign, transfer or novate this Agreement to another party with your consent, unless the assignment forms part of the transfer to the same third party of all or substantially all of our retail business. You need to get our consent if you want to assign this Agreement.

11.3 Governing Law

This Agreement is governed by the laws of New South Wales.

11.4 Relevant Laws

You and we agree to comply with all requirements in the Relevant Laws except where this Agreement is different to those requirements and where that difference is permitted by the Relevant Laws, in which case this Agreement will apply.

In particular, the Conditions sets out our obligations to you and your obligations to us and this Agreement cannot be inconsistent with the Conditions. If a term or condition of this Agreement is inconsistent with the Conditions, it is void and the corresponding term or condition in the Conditions is incorporated into and applied under this Agreement.

The Conditions are available on the AER website www.aer.gov.au/node/10087 and www.aer.gov.au/node/10095.

12. CREDIT INFORMATION AND PRIVACY

12.1 Exchange of credit worthiness information between credit providers (Privacy Act)

By entering into this Agreement, you agree that we may exchange information about you with other credit providers under the Privacy Act for the purpose of assessing an application by you for credit;

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assisting you to avoid defaulting on your credit obligations; notifying other credit providers in writing of a default by you; exchanging information with other credit providers as to the status of this credit where you are in default with other credit providers; or to assess your commercial or consumer credit worthiness. The information exchanged can include anything about your credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to exchange or are not prohibited from exchanging under the Privacy Act for the purposes permitted by that Act.

12.2 Disclosure of credit information to a credit reporting agency (Privacy Act)

This Agreement constitutes an Agreement for credit. You also agree that we may give commercial or consumer credit information to a credit reporting agency either for the purpose of obtaining a credit report about you or allowing the credit reporting agency to create or maintain a credit information file containing information about you, or both.

This information may be given before, during or after the provision of credit to you. This information may include: your name, gender and date of birth; your current and previous addresses; the fact that you have applied for credit; the fact that we provide credit to you; the existence of any loan repayments which are overdue by more than 40 Business Days and for which debt collection action has started; advice that payments are no longer overdue; information that, in our opinion, you have committed a serious credit infringement; or information about cheques drawn by you for \$100 or more which have been dishonoured more than once.

12.3 Privacy

We are committed to respecting your privacy. We comply with the National Privacy Principles under the Privacy Act, including standards of collection and disclosure of and access to personal information. To help us maintain these standards, we may request that you provide us with acceptable and accurate identification and contact details and, in relation to a request by you for connection of electricity to a rental property, contact details for the property owner or the owner's agent.

We collect personal information about you to assist in the operation of our business and the delivery of electricity and other products and services. If you do

not provide us with this information or any requested identification in a timely and accurate manner we may not be able to provide you with our full range of products and services.

From time to time we may provide you with promotional material. If you do not wish to receive this information, please let us know. We may disclose your information (irrespective of where the information was obtained from) to organisations we engage to assist us with delivering our products and services, including credit reporting and debt collecting agencies, our related companies and joint venture partners, authorised representatives and professional advisors such as lawyers and auditors. We may also disclose your personal information where required or authorised by law, for example to the courts, and to government or regulatory authorities. You can request access to the information we hold about you at any time by writing to our Privacy Officer at our ordinary mailing address.

13. DEFINITIONS

Additional Service Charges includes the Network charge, any charges incurred by you (and as explained by us prior to you incurring such charges) for services requested by you, administrative charges relating to your service, services required to enforce this Agreement or services we are required to provide to you under Relevant Laws (such as meter upgrades) and other network charges for the goods and services provided to you in connection with your electricity supply. Please call us or visit our website for up-to-date information about these charges. Any Additional Service Charge we charge you will be fair and reasonable having regard to our related costs.

Business Day means a day other than a Saturday or Sunday or a public holiday in New South Wales.

Conditions mean the conditions applicable to us as an Exempt Seller made under the National Electricity Retail Law.

Agreement means the terms and conditions in this booklet together with any Additional Terms and Conditions agreed to by you.

Early Termination Fee means the fee imposed for terminating a Fixed Term Agreement before its expiry date and is a reasonable estimate of the costs to us resulting from the early termination (as specified in your Pricing Schedule).

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Disclosure Document means the document of that title containing the mandatory disclosure information required under the Conditions.

Electricity Supply Agreement means an agreement between a Tenant and us for the supply of electricity at a discounted tariff for a fixed period of time.

Exempt Seller means the holder of retailer exemption under the National Energy Retail Law.

Lease means the lease, licence and/or occupancy agreement between us (as landlord or licensor) and you as the Tenant from time to time.

Markets means the land contained in certificate of title folio identifier Volume 8660 Folio 112 and known as "Sydney Markets".

National Electricity Retail Law means the law of that name, as applied in New South Wales.

Network Charge means the cost payable by you to access and use our privately owned embedded network (as varied from time to time).

Premises means the premises demised by a Lease or otherwise occupied by you.

Pricing Schedule means the document of that title which sets out your details, your account and your tariffs for electricity supplied by us to your Premises.

Privacy Act means the *Privacy Act 1988* (Cth).

Relevant Laws means any laws, acts, regulations, conditions, orders, guidelines, policies, procedures, licences or codes that apply to this Agreement or regulate the electricity industry in New South Wales from time to time, including the National Energy Retail Law.

Retailer means the holder of a retail licence to sell electricity pursuant to the National Energy Retail Law.

Tenant, you (or your) means the means you, or a lessee, licensee, tenant and/or other occupant or party to a Lease who has accepted this Agreement. Where the customer consists of more than one person, or where the person has accepted on behalf of a business and that business consists of more than one person or a partnership, each person or each partner (as the case may be) is jointly and severally bound by the obligations in this Agreement.

Us or we, our and ours means Sydney Markets Limited ABN 51 077 119 290.

14. INTERPRETATION

In this Agreement, unless the context requires otherwise:

- headings are for convenience only and do not affect the interpretation of any part of this Agreement;
- words importing the singular include the plural and vice versa;
- a reference to us connecting or disconnecting or reconnecting you is to be construed in accordance with the Conditions; and
- in the Pricing Schedule, Disclosure Document and the Electricity Supply Agreement, capitalised terms not otherwise defined in those documents have the meanings given to them in these Standard Terms and Conditions.

15. CONTACT DETAILS AND FURTHER INFORMATION

Sydney Markets Limited

Ph: (02)9325 6255

E: siteservices@sydneymarkets.com.au

W: www.sydneymarkets.com.au

Electricity and Water Ombudsman of New South Wales

Freecall: 1800 246 545 (except mobiles)

Free fax: 1800 812 291

Free Post: Reply Paid 86550 Sydney South NSW 1234

W: www.ewon.com.au

