
1 Definitions

In this document, unless the contrary intention is apparent:

Actual Start Date means the date on which the Works are to commence, being the Work Commencement Date or such later date determined in accordance with clause 4.

Allowed Time means the period commencing from the Work Commencement Date and ending on the Work Finish Date.

Allowed Hours means the period of a day during which the Works may be undertaken. Unless specified otherwise in the Request for Network Access, the Allowed Hours are 8.00am to 3.00pm on Business Days.

Customer means the person described as such in the Request for Network Access.

Application means the application lodged by the Customer requesting an Offer in accordance with the procedures set out on SA Power Networks' website.

Applicable Laws means any legislation, regulations or legally binding instruments (including rules, codes, guidelines, directives, licence conditions or other regulatory instruments) made under legislation or regulations which are directly or indirectly binding on or are expressed to apply to the Customer or SA Power Networks and which regulate the Works or the Distribution Network.

Approvals means any licence, permit, consent, certificate, approval or other form of authorisation required to be obtained pursuant to Applicable Laws to perform an act or discharge an obligation.

Australian Standards means the standards published by Standards Australia Limited ABN 85 087 326 690.

Authority means any government department or any statutory, public, municipal, local or other authority charged with the responsibility for administering any Applicable Laws.

Business Day means a day other than a Saturday, Sunday or day which is a public holiday in South Australia.

Charges means the charges set out in the Quote.

Request for Network Access means the document containing the details of the Application as sent to the Customer on submitting the Application.

Distribution Network means the South Australian electricity distribution network which SA Power Networks is authorised to operate pursuant to the *Electricity Act 1996*.

Work Commencement Date means the date specified in the Request for Network Access as the "Work Commencement Date".

Interest Rate means the cash rate target (published by the Reserve Bank of Australia) (applying from time to time) plus 3%.

Offer means the offer provided by SA Power Networks to the Customer to enter into a permit contract, which offer consists of these General Terms and Conditions, Request for Network Access and the Quote.

Permit Contract means the contract SA Power Networks and the Customer form if the Customer accepts the Offer in the manner and within the timeframe specified in the Offer. The Permit Contract comprises these General Terms and Conditions and the Contract Particulars.

Permitted Purpose means the purpose specified in the Request for Network Access.

Personnel means employees of the Customer and other natural persons engaged by the Customer directly or indirectly (that is through contractors) to undertake the Works.

Quote means the Permit quote sent by email to the Customer for acceptance after the Application has been approved by SA Power Networks.

SA Power Networks means SA Power Networks (ABN 13 332 330 749), a partnership of Spark Infrastructure SA (No. 1) Pty Ltd ABN 54 091 142 380, Spark Infrastructure SA (No. 2) Pty Ltd ABN 19 091 143 038 and Spark Infrastructure SA (No. 3) Pty Ltd ABN 50 091 142 362, each incorporated in Australia, and CKI Utilities Development Ltd ABN 65 090 718 880 and PAI Utilities Development Ltd ABN 82 090 718 951, each incorporated in the Bahamas, of 1 Anzac Hwy, Keswick.

SA Power Networks Services means those activities to be undertaken by SA Power Networks to facilitate the undertaking of the Works as set out in the Request for Network Access or in the SA Power Networks standards referred to in the Request for Network Access (for example isolating equipment or supervising access to the Distribution Network).

Address means the land specified in the Request for Network Access.

Special Conditions means any special conditions specified in the Request for Network Access.

Wilful Misconduct means a deliberate and pre-meditated act done knowing it is a breach of the Permit Contract or done with reckless disregard to material harmful consequences which are probable to result from doing the act.

Works means the works specified in the Request for Network Access.

Work Finish Date means the date specified in the Request for Network Access as the "Work Finish Date"

2 Preconditions to Commencement of the Works

- (a) The Customer may not undertake the Works unless it has:
- (i) obtained, and if requested by SA Power Networks provided to SA Power Networks a copy of, any Approvals required to undertake the Works;
 - (ii) provided to SA Power Networks a certificate of currency for each insurance policy the Customer is required to maintain under clause 7 (or in the case of workers compensation insurance other satisfactory evidence that insurance has been taken out); and
 - (iii) satisfied any requirements specified in the Special Conditions for the purposes of this clause 2(a).
- (b) The Customer must ensure the conditions referred to in clause 2(a) are satisfied no later than 7 days prior to the Work Commencement Date, unless otherwise agreed with SA Power Networks. If the Customer fails to comply with this requirement SA



Power Networks may terminate the Permit Contract by notice to the Customer with immediate effect.

3 Works

3.1 Overview

- (a) Subject to the remaining terms of the Permit Contract, the Applicant is permitted to undertake the Works during the Allowed Time and the Allowed Hours and to access the Site solely for this purpose.
- (b) The Works may only be undertaken for the Permitted Purpose.
- (c) The Customer must undertake the Works:
 - (i) in accordance with all Applicable Laws;
 - (ii) in accordance with the terms of all Approvals;
 - (iii) such that the risk of harm to persons and property is reduced to as low as reasonably practicable (or such other standard as applies by law);
 - (iv) in accordance with good industry practice;
 - (v) in accordance with any applicable Australian Standards;
 - (vi) in accordance with any SA Power Networks standards specified in the Request for Network Access;
 - (vii) in accordance with any directions of SA Power Networks; and
 - (viii) in accordance with any requirements of the Request for Network Access.
- (d) If an SA Power Networks standard specified in the Request for Network Access is not available on the public section of SA Power Networks' website, no later than 2 Business Days after a request by the Customer, SA Power Networks must provide a copy of that standard to the Customer.

3.2 Personnel

- (a) The Customer must ensure the Works are supervised by the person specified in the Request for Network Access (who will be the supervisor nominated in the Application or such other person agreed by SA Power Networks and the Customer as part of SA Power Networks preparing the Offer, if the supervisor nominated in the Application was not acceptable to SA Power Networks acting reasonably).
- (b) The Customer must ensure that all Personnel undertaking the Works:
 - (i) are appropriately skilled, experienced and trained to safely undertake the tasks allocated to them;
 - (ii) are not under the influence of alcohol or drugs;
 - (iii) are provided with appropriate protective clothing;
 - (iv) comply with all applicable requirements of laws relating to work health and safety; and
 - (v) complete any induction processes required by SA Power Networks.



- (c) No other persons, other than the Personnel undertaking the Works and representatives of SA Power Networks, may be on Address during the undertaking of the Works or be involved in the undertaking of the Works.
- (d) If required by SA Power Networks, the Customer must provide to SA Power Networks the names and qualifications of all Personnel proposed to be involved in undertaking the Works. This information must be provided 5 Business Days prior to the Work Commencement Date or within 2 Business Days of request, whichever is the latter.
- (e) If a member of the Personnel acts in a manner which is unsafe or unlawful, the Customer must, if required by SA Power Networks, remove that person from the Address and involvement in the Works.

3.3 Safety Management Plan

- (a) If the Application was required to be accompanied by a safety management plan, the Customer must ensure that it complies with that safety management plan (or such modified form of that plan as agreed by SA Power Networks and the Customer as a pre-condition to SA Power Networks issuing the Offer).
- (b) The Customer is responsible for the preparation of such safety management plan and for ensuring it complies with all applicable work health and safety legislation.

3.4 Information

- (a) The Customer warrants that all information provided in the Application is correct and complete. The Customer must immediately notify SA Power Networks if it becomes aware of any inaccuracy in the information provided in the Application (other than an inaccuracy which is clearly trivial or inconsequential).
- (b) The Customer must provide such information in relation to the Works as reasonably requested by SA Power Networks from time to time. Such information must be provided within the time specified by SA Power Networks (acting reasonably).

3.5 SA Power Networks Supervision

- (a) The Customer must, to the extent required by SA Power Networks, permit representatives of SA Power Networks to attend at the Address and supervise the Works.
- (b) The supervision provided by SA Power Networks representatives is for the sole purpose of monitoring that the Works do not adversely impact the Distribution Network. SA Power Networks will not undertake the Works and, other than for the purpose of protecting the Distribution Network, provides no advice as to how the Works should be carried out.

3.6 Hard Copy Permit

SA Power Networks may issue to the Customer a hard copy permit. If so the Customer must ensure the permit is displayed in accordance with SA Power Networks' instructions.

3.7 SA Power Networks Services

Subject to the terms of the Permit Contract, SA Power Networks will undertake the SA Power Networks Services.



3.8 **No Supply Interruptions without Customer Consent**

- (a) The Customer must not undertake Works which will require an interruption in or curtailment of electricity supply to, or generation of electricity by, an electricity customer or generator unless:
 - (i) that customer or generator has given its explicit informed consent to that interruption or curtailment (after the Customer has clearly, fully and adequately disclosed all matters relevant to the consent of the customer or generator);
 - (ii) that consent is recorded in writing in terms satisfactory to SA Power Networks acting reasonably;
 - (iii) reminder notices are sent to the customer or generator prior to the interruption or curtailment at the times and in the form directed by SA Power Networks (acting reasonably); and
 - (iv) the interruption or curtailment has been approved by SA Power Networks' "Networks Operations Centre".
- (b) The Customer must not undertake Works which will require an interruption in or curtailment of electricity supply to an electricity customer who is on life support equipment (as that term is defined in the National Energy Retail Rules).
- (c) Unless a customer or generator otherwise gives its explicit informed consent, supply to or generation by a customer or generator may not be interrupted or curtailed if that customer or generator has had their supply or generation interrupted due to an unplanned interruption in the prior two weeks.
- (d) The Customer must not make any false or misleading representation to a customer or generator that they are required to agree to an interruption or curtailment.

3.9 **Conclusion of Works**

At the conclusion of the Works the Customer must ensure that the area in which the Works were undertaken is (to the extent impacted by the Works) made safe and left in a clean and tidy condition free from debris and hazards and in doing so must comply with any reasonable directions SA Power Networks may give.

3.10 **Accessing Existing Infrastructure**

- (a) This clause 3.10 applies if as part of the Works the Customer is to access infrastructure which was installed in proximity to the Distribution Network pursuant to an approval granted either by SA Power Networks or by the Technical Regulator (as that term is defined in the *Electricity Act 1996*). Such an approval is referred to in this clause 3.10 as a **Location Approval** and the infrastructure is referred to as the **Installed Infrastructure**.
- (b) In undertaking the Works and accessing the Address the Customer must comply with all applicable terms of the Location Approval and must not do any act or make any omission inconsistent with the Location Approval.
- (c) If the Customer is not the owner of the Installed Infrastructure the Customer must first obtain from the owner of the Installed Infrastructure the owner's consent to the Customer accessing the Installed Infrastructure, and an agreement acceptable to SA Power Networks acting reasonably that the owner indemnifies SA Power Networks against loss arising from any breach by the Customer of the Permit



Contract and provides acknowledgements and agreements equivalent to those in clause 3.10(d).

- (d) If the Customer is the owner of the Installed Infrastructure the Customer acknowledges and agrees:
- (i) that a permit contract is required each time the Customer wishes to undertake works in relation to that Installed Infrastructure (and the grant of the Location Approval does not affect or waive the requirement to enter into such a permit contract); and
 - (ii) if the Customer transfers ownership of the Installed Infrastructure it must ensure any subsequent owner of the Installed Infrastructure enters into a contract with SA Power Networks agreeing to comply with the terms of the Location Approval (and until the Customer does so it remains liable to SA Power Networks for any failure of a subsequent owner to comply with the terms of the Location Approval).

4 Rescheduling or Suspension of Works

- (a) The Customer acknowledges that SA Power Networks is the provider of an essential service which must be provided safely, in accordance with the law and in a manner which minimises interruptions to customers. These requirements are paramount and prevail over the undertaking of the Works.
- (b) SA Power Networks may defer or suspend the Works for such time as SA Power Networks considers is required:
- (i) to preserve electricity supply to customers;
 - (ii) to protect persons or property;
 - (iii) to comply with laws;
 - (iv) due to the matters referred to in clause 4(c).
- (c) The Customer acknowledges that the Works may need to be suspended or deferred (including at short notice) due to:
- (i) temperatures or network demand varying from that predicted;
 - (ii) breakdown or failure of generators or the transmission network in turn impacting the integrity of the Distribution Network or its ability to service demand;
 - (iii) directions of Authorities;
 - (iv) issues arising on other areas of the Distribution Network, including failure of, or damage to, parts of the Distribution Network;
 - (v) the need to divert SA Power Networks personnel to address emergencies or other unplanned events, such that they are not available to supervise the Works;
 - (vi) where SA Power Networks representatives are required to be in attendance while the Works are undertaken, if the representatives are not able to be in attendance (including due to events beyond SA Power Networks control or due to illness or injury of the representatives); or



- (vii) SA Power Networks being delayed in, or prevented from, providing the SA Power Networks Services due to events beyond its reasonable control.
- (d) If SA Power Networks defers the Works prior to the Actual Start Date it will nominate to the Customer a new start date.
- (e) If SA Power Networks defers or suspends the Works on or after the Actual Start Date it will determine the date upon which the Works may recommence.
- (f) The new start date or date for recommencement of the Works may be notified to the Customer in a notice sent subsequent to the notice the Works are being suspended or deferred. This is because SA Power Networks may need time to determine an appropriate new start date or recommencement date.
- (g) SA Power Networks will consult with the Customer and, subject to the considerations referred to in clause 4(b), seek to determine a new start date or recommencement date which is consistent with the Customer's requirements.
- (h) The Works may be deferred or suspended on more than one occasion.
- (i) SA Power Networks will exercise its powers under this clause 4 in good faith.
- (j) The Customer may request a deferral of the Works if the Customer is delayed in undertaking the Works provided the deferral is for not more than 14 days. SA Power Networks will act reasonably in seeking to accommodate such request. Clauses 4(f) and 4(g) will apply to the determination of the new start date or recommencement date.
- (k) If the Works are suspended after they have commenced, the Customer must comply with any directions given by SA Power Networks, acting reasonably, to ensure that the Works are suspended in such manner as does not pose a risk to the Distribution Network or persons or property and that the Address is safe.

5 Timeframes

- (a) The Works must commence on the Actual Start Date.
- (b) The Works must be completed within the Allowed Time from the Actual Start Date.
- (c) The Works must be completed by Work Finish Date.
- (d) If the works are deferred under clause 4, the period of deferral is not taken into account in determining whether the Allowed Time has elapsed.
- (e) If due to a deferral or suspension under clause 4, additional time is reasonably required to undertake the Works (for example because induction or safety checklists need to be repeated) the Customer may notify SA Power Networks and provide such evidence as is reasonably required to substantiate the additional time required. SA Power Networks will extend the Allowed Time by the amount of additional time reasonably required.
- (f) If the Works are delayed by:
 - (i) any act or omission of SA Power Networks not permitted by the Permit Contract, SA Power Networks will extend the Allowed Time by the extent of the delay to the Works caused by SA Power Networks;



- (ii) a delay in the provision of the SA Power Networks Services caused by an event beyond SA Power Networks' reasonable control, SA Power Networks will extend the Allowed Time by the extent of the delay caused to the Works due to the delay in the provision of the SA Power Networks Services.
- (g) If the Works are not completed by the end of the Allowed Time, SA Power Networks will act reasonably in considering any request by the Customer for an extension of the Allowed Time. In determining whether to grant such request SA Power Networks may consider, without limitation, the matters referred to in clause 4(a) and clause 4(b) and the availability of SA Power Networks' resources.
- (h) If SA Power Networks does not extend the Allowed Time, then from the expiry of the Allowed Time, the Works must cease, the Permit Contract will expire and the Customer will need to make a new Application to enable it to complete the Works. In such case the Customer must ensure that the area in which the Works were undertaken is (to the extent impacted by the Works) made safe and left in a clean and tidy condition free from debris and hazards and in doing so must comply with any reasonable directions SA Power Networks gives.
- (i) Unless otherwise agreed by SA Power Networks in writing, the Works may only be undertaken during the Allowed Hours.

6 Charges

- (a) The Customer must pay the Charges specified in the Quote.
- (b) SA Power Networks may issue the Customer invoices for the Charges..
- (c) An invoice must be paid within 14 days of its issue by electronic funds transfer to the account specified in the invoice.
- (d) If the Customer fails to pay an invoice by the due date for payment, then:
 - (i) interest will accrue due on the overdue amount at the Interest Rate from the due date for payment until the overdue amount is paid; and
 - (ii) the Customer must reimburse SA Power Networks any reasonable costs it incurs in seeking to recover payment.

7 Insurance

- (a) The Customer must maintain from the commencement of the Works until they are completed:
 - (i) third party public liability insurance covering liability to third parties for death or bodily injury (including illness) and loss of, damage to and loss of use of, property arising out of anything done or omitted to be done in the course of or in connection with the Works for a liability of not less than \$20,000,000 in respect of any one occurrence and unlimited as to the number of occurrences;
 - (ii) workers compensation insurance as required by law; and
 - (iii) for all vehicles used in connection with the Works, insurance against third party claims under a comprehensive motor vehicle third party liability



policy for an amount of not less than \$10,000,000 per occurrence and unlimited as to the number of occurrences.

- (b) The insurer for the purposes of the third party public liability policy must be approved by SA Power Networks (who will act reasonably in giving that approval).
- (c) Where requested by SA Power Networks from time to time acting reasonably, the Customer must provide SA Power Networks within such time specified by SA Power Networks acting reasonably:
 - (i) a certificate of currency for the insurances; and
 - (ii) such other information in respect of the insurance policies and matters relating to them as SA Power Networks requests.
- (d) The Customer must promptly notify SA Power Networks whenever an event occurs which gives rise to, or which might give rise to, a claim under an insurance policy maintained by the Customer for the purposes of this clause 7.
- (e) The Customer must promptly notify SA Power Networks if any insurance policy is cancelled, or otherwise ceases to be in force, or if the Customer has failed to ensure insurance is maintained and obtained in accordance with the requirements of this clause 7.
- (f) If SA Power Networks makes a claim for payment of damages, losses, expenses or costs against the Customer for which insurance proceeds may be available, the Customer must make a claim on its insurance to meet that claim by SA Power Networks unless:
 - (i) the Customer will be able to meet the claim from its own financial resources (without relying on insurance); or
 - (ii) the amount of the claim is less than any excess or deductible applicable under the relevant policy.

8 Suspension and Termination

8.1 Suspension

- (a) SA Power Networks may suspend the undertaking of the Works if:
 - (i) any amount due to SA Power Networks under the Permit Contract is not paid by the due date;
 - (ii) due to any act or omission of the Customer or the Personnel a near-miss incident occurs (as defined in applicable work health and safety legislation); or
 - (iii) the Customer commits any breach of clause 3.
- (b) The suspension will continue until such time (as applicable) as the Customer pays the overdue amount (and if required by SA Power Networks any interest accrued due) or the Customer satisfies SA Power Networks that the Customer will comply with the requirements of clause 3.

8.2 Termination

SA Power Networks may terminate the Permit Contract if:



- (a) a suspension under clause 8.1(a) continues for more than 30 days;
- (b) any act or omission of the Customer causes the death of any person or an injury requiring treatment at a hospital or medical clinic;
- (c) the Customer breaches any Applicable Law relating to the undertaking of the Works;
- (d) the Customer shows a conscious disregard of its obligations under clause 3; or
- (e) the Customer breaches a provision of the Permit Contract (other than clause 5) and does not remedy that breach within the reasonable time specified by SA Power Networks.

8.3 Cancellation by Customer

- (a) The Customer may cancel the Permit Contract at any time prior to the Actual Start Date. However if cancelled less than 7 days prior to the Actual Start Date a cancellation fee in the amount described in the Request for Network Access will apply.
- (b) The Customer may by notice to SA Power Networks cancel the Permit Contract on or after the Actual Start Date but in such case:
 - (i) the Customer must comply with any directions given by SA Power Networks, acting reasonably, to ensure that the Works are discontinued in such manner as does not pose a risk to the Distribution Network or persons or property;
 - (ii) the Customer must ensure that the area in which the Works were undertaken is (to the extent impacted by the Works) made safe and left in a clean and tidy condition free from debris and hazards and in doing so must comply with any reasonable directions SA Power Networks gives; and
 - (iii) the Charges set out in the Request for Network Access remain payable except to the extent they relate to activities not undertaken by SA Power Networks as at the date of cancellation and which are not undertaken as part of the cancellation.

9 Liability

- (a) To the extent permitted by law, SA Power Networks is not liable to the Customer (whether for breach of contract, in tort (including negligence) or on any other basis whatsoever) for any:
 - (i) loss of profit, revenue, use, contract, opportunity or business interruption; or
 - (ii) indirect, special or consequential loss,
 arising from any act or omission of SA Power Networks in connection with the Permit Contract or the Works.
- (b) To the extent that SA Power Networks' activities under the Permit Contract involve the provision of a service, SA Power Networks' liability for any defect or failure in the provision of that service (including any failure of that service to comply with any



guarantee which may apply under the Australian Consumer Law) is, to the extent permitted by law, limited to the resupply of that service.

- (c) Where SA Power Networks breaches the Permit Contract or is negligent or otherwise commits an act or makes an omission which gives rise to a cause of action and clause 9(b) does not apply to the act or omission then SA Power Networks liability is limited to \$50,000.
- (d) This clause 9 does not limit SA Power Networks' liability for:
 - (i) causing damage to or destruction of property by its breach of the Permit Contract or negligence, provided that SA Power Networks' liability for causing such damage or destruction is limited to the cost of repair or replacement of that property;
 - (ii) causing personal injury or death by its breach of the Permit Contract or negligence; or
 - (iii) fraud or Wilful Misconduct.
- (e) The Customer must:
 - (i) indemnify and keep SA Power Networks indemnified against all costs, expenses, losses and damages suffered or incurred by SA Power Networks due to the following:
 - (A) any third party claim against SA Power Networks due to a Distribution Service Impact;
 - (B) damage to or destruction of property or personal injury or death; or
 - (C) any reduction in SA Power Networks' allowable revenue under a regulatory scheme or other law (including without limitation the service target performance incentive scheme) due to a Distribution Service Impact;
 - (ii) reimburse SA Power Networks for any payment SA Power Networks is required to make, or rebate it is required to allow, to persons connected to the Distribution Network due to a Distribution Service Impact, but only where the Distribution Service Impact, loss or damage to property or personal injury or death was caused by the Customer's breach of the Permit Contract or negligence.
- (f) The indemnity in clause 9(e)(i) does not extend to costs, expenses, losses and damages:
 - (i) which SA Power Networks would have avoided had it complied with the common law duty to mitigate loss; or
 - (ii) which are caused by SA Power Networks' negligence or breach of the Permit Contract.
- (g) The reimbursement obligation in clause 9(e)(ii) does not extend to payments and rebates:
 - (i) which SA Power Networks would have avoided had it complied with the common law duty to mitigate loss; or



- (ii) which are caused by SA Power Networks' negligence or breach of the Permit Contract.
- (h) For the purposes of clause 9(e) a Distribution Service Impact means:
 - (i) any interruption or curtailment to the supply of electricity;
 - (ii) any interruption or curtailment in SA Power Networks' ability to accept exported electricity; or
 - (iii) any disruption to or interference with the quality of electricity (including its voltage, harmonics, frequency or any other attributes) or any power surges.
- (i) Except to the extent they fall within the costs, expenses, losses and damages described in clause 9(e) or the reimbursement obligation in clause 9(e) the Customer is not liable to SA Power Networks for:
 - (i) loss of profit, revenue, use, contract, opportunity or business interruption; or
 - (ii) indirect, special or consequential loss.

10 Rights Personal

The rights granted under the Permit Contract are personal to the Customer and may not be assigned or sublicensed.

11 GST

- (a) Unless specifically described in the Permit Contract as 'GST inclusive', the consideration to be paid or provided for a supply made under or in connection with the Permit Contract does not include any amount on account of GST.
- (b) Where any supply to be made by one party (**Supplier**) to the other party (**Recipient**) under or in connection with the Permit Contract is subject to GST (other than a supply for which the consideration is specifically described in the Permit Contract as 'GST inclusive'):
 - (i) the consideration payable or to be provided for that supply but for the application of this clause 11 (**GST Exclusive Consideration**) shall be increased by, and the Recipient shall pay to the Supplier, an amount equal to the GST payable by the Supplier in respect of that supply; and
 - (ii) provided the Recipient has received a tax invoice for the supply, the Recipient must pay that additional amount at the same time and in the same manner as the GST Exclusive Consideration payable or to be provided for that supply (and where the tax invoice has not been received then the payment on account of GST will not be due until 14 days after the receipt of that tax invoice).
- (c) If any payment to be made to a party under or in connection with this Permit Contract is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that party, then the amount of the payment must be reduced by the amount of any input tax credit to which that party is entitled for that expense or other liability, such reduction to be effected before any increase in accordance with this clause 11.



- (d) For the purposes of the Permit Contract:
- (i) terms used in this clause 11 that are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the meaning given to them in that Act; and
 - (ii) a reference to a payment in this clause 11 includes any payment of money and any form of consideration other than payment of money.

12 Confidentiality

12.1 Confidential Information

Each party will treat and keep confidential all information disclosed to that party, under the Permit Contract, pursuant to the transactions contemplated by the Permit Contract or during the negotiations preceding the execution of the Permit Contract by the other party, (**Confidential Information**) irrespective of the form in which that information was provided.

12.2 Permitted Disclosure

Despite clause 12.1, Confidential Information may be disclosed by a party receiving that information in the following circumstances:

- (a) to its and its Related Bodies Corporate's (as that term is defined in the *Corporations Act 2001* (Cth)) employees, professional advisers or their financiers who require that information for the purpose of carrying out the functions assigned to them by the party;
- (b) to its and its Related Bodies Corporate's insurers;
- (c) with the consent of the party who provided the information, which consent may not be unreasonably withheld;
- (d) where the information was already known to it at the time it received it in the manner contemplated by clause 12.1;
- (e) the information is known publicly other than as a consequence of a breach of clause 12.1 by that party;
- (f) when required by law or by the requirements of any stock exchange on which the shares of the party or any of its Related Bodies Corporate are listed;
- (g) as required to discharge a party's obligations under the Permit Contract or to exercise its rights under the Permit Contract; and
- (h) in the case of SA Power Networks, as required for the maintenance or protection of the Distribution Network or maintenance of electricity supply to customers.

12.3 Permitted Disclosure

Except in the case of clause 12.2(c), clause 12.2(d), clause 12.2(e) and clause 12.2(f), a party disclosing Confidential Information under this clause 12 must use its reasonable endeavours to ensure that the persons to whom it discloses that information undertake to keep the information confidential.

13 Miscellaneous

- (a) The Permit Contract is governed by the laws of South Australia.



- (b) A party waives a right under the Permit Contract only by written notice that it waives that right.
- (c) If a provision of the Permit Contract would, but for this clause 13, be unenforceable the provision will be read down to the extent necessary to avoid that result and if the provision cannot be read down to that extent, it will be severed without affecting the validity and enforceability of the remainder of the Permit Contract.

