



Version: 2.1

Template Connection and Access Agreement – 3rd Party Owner - Load

Template Connection and Access Agreement – 3rd Party Owner - Load

AMENDMENTS

Powerlink reserves the right, in its absolute discretion to amend this template from time to time in such a manner as it thinks fit.

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TEMPLATE ONLY

This document is a template only and does not cover all commercial scenarios that may apply.

Customer Connection and Access Agreement

Version History

Version	Date	Details of Amendment
1.0	01/07/2018	New published document
2.0	14/10/2021	Updated for the <i>National Electricity Amendment (Connection to dedicated connection assets) Rule 2021 No. 7</i>
2.1	24/12/2021	General updates



Customer Connection and Access Agreement

[#name of Customer connection#] ~ Customer Connection and Access Agreement

Dated:

Queensland Electricity Transmission Corporation Limited (trading as Powerlink Queensland)
ABN 82 078 849 233 ("Powerlink")

and

[Insert Customer Name] ABN **xx xxx xxx xxx** ("Customer")

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Customer Connection and Access Agreement

Details

Interpretation – definitions are in Schedule 10 (“Dictionary”)

Parties	Powerlink and Customer	
Powerlink	Name	Queensland Electricity Transmission Corporation Limited (trading as Powerlink Queensland)
	ABN	82 078 849 233
Customer	Name	XXXX
	ABN	XXXX
	Facility Address	XXXX
Recitals	A	Powerlink operates a <i>Transmission Network</i> in Queensland.
	B	The Customer requires connection of the Customer Facility to the <i>Transmission Network</i> operated by Powerlink.
	C	The Customer and the Owner have agreed that the Owner will design and construct the Owner Negotiated Assets.
	D	Powerlink and the Owner have agreed that Powerlink will operate and maintain the Owner Negotiated Assets on the terms and conditions of the Network Operating Agreement.
	E	Under the Works Coordination Agreement, Powerlink, the Customer and the Owner have agreed to undertake and coordinate their respective Works required to allow the Customer to take <i>Energy</i> from the Customer Facility to the <i>Transmission Network</i> for consumption at the Customer Facility (“ Load ”).
	F	This agreement sets out the agreed terms for: (i) the provision of Transmission Services by Powerlink to the Customer using the <i>Transmission Network</i> (including the Negotiated Assets); and (ii) the charges that the Customer will pay Powerlink.
Start Date	The date of this agreement	
Commencement of Parts	The Parts of this agreement commence in accordance with clause 21.	

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End Date	The date that is [xx] years from the Charges Commencement Date.
Date of this agreement	The date that the last party signs this agreement - see Signing page

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Agreement

Part A – Transmission Services

1. Transmission Services

1.1 Provision of Transmission Services by Powerlink

On and from the Load Energisation Date, Powerlink agrees to provide the Transmission Services to the Customer, subject to the Electricity Laws and this agreement.

1.2 Acceptance of services by Customer

The Customer agrees to accept the Transmission Services, subject to the Electricity Laws and this agreement.

1.3 Exceeding Agreed Power Transfer Capability and ratings

The Customer must not exceed the Agreed Power Transfer Capability when transferring electricity between the Customer Facility and the *Transmission Network*.

1.4 Limits of agreed configuration

The Customer agrees that nothing in this agreement obliges Powerlink to provide or utilise any specific technical configuration, architecture or associated equipment to satisfy its obligations under clause 1.1 (“Provision of Transmission Services by Powerlink”).

1.5 Connection and access arrangements under the Rules

The Customer acknowledges that:

- (a) **(connection and access)** under the Electricity Laws:
 - (i) the *Transmission Network* (including an *Identified User Shared Asset* but excluding a *Designated Network Asset*) is subject to an ‘open access’ connection and access regime;
 - (ii) a *Designated Network Asset* is not subject to ‘open access’ but the process in clause 5.3 of the Rules applies to a connection to a *Designated Network Asset* and access to a *Designated Network Asset* (including the provision of *DNA Services*) is governed by the *Access Policy* that applies to the *Designated Network Asset*;
- (b) **(no property/firm access rights)** this agreement does not give the Customer any property rights or firm access rights, or any entitlement to compensation in relation to any such rights, to any assets, capacity or capability in or over the *Transmission Network* or the Negotiated Assets;
- (c) **(interactions of plant and equipment with *Transmission Network*)** the operation of Powerlink’s *Transmission Network* and the Negotiated Assets depends on the interaction of all plant and equipment connected (directly or indirectly) to it; and
- (d) **(equipment of others)** other persons whose plant and equipment is connected (directly or indirectly) can impact the operation, performance and outcomes of

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Powerlink's *Transmission Network* and the Negotiated Assets and the provision of *Transmission Services*.

2. Service reduction

2.1 When reduction allowed

Powerlink may reduce the *Power Transfer Capability* or otherwise reduce or suspend Transmission Services during any of the following conditions (or any combination of them) affecting the transfer of electricity at the Transmission Network Connection Point, or through the DCA or through the Negotiated Assets:

- (a) **(contingency events)** one or more Contingency Events;
- (b) **(constraints)** a constraint on the *Transmission Network*;
- (c) **(legal)** the existence of a court order or any order or direction made by an Authority under the Electricity Laws or the WHS Laws;
- (d) **(technical breach)** the Customer commits a Technical Breach;
- (e) **(defects in the Negotiated Assets)** defects in, poor performance or failure of, the Negotiated Assets other than as a result of Powerlink's breach of the Network Operating Agreement or its negligence;
- (f) **(access to the Negotiated Assets)** Powerlink not having the benefit of unfettered access to the NAPA Rights, [the Powerlink Minimum Land Access Requirements,] the Works Approvals or the Negotiated Assets as contemplated by the parties in the Works Coordination Agreement;
- (g) **(negligence of or breach by Customer or Owner)** the negligence, breach of duty or default of the Customer or Owner or a breach of:
 - (i) the Works Coordination Agreement or the NAPA Rights by the Customer or the Owner; or
 - (ii) the Network Operating Agreement by the Owner.

2.2 Mitigation

In exercising its rights under clause 2.1 ("When reduction allowed"), Powerlink:

- (a) **(reduction as reasonably necessary)** may reduce or suspend services to the extent and for the time that it reasonably considers necessary to deal with the relevant condition;
- (b) **(mitigation)** agrees to use reasonable endeavours to notify the Customer and minimise the impact and duration of the service reduction; and
- (c) **(restoration)** agrees, in accordance with *Good Electricity Industry Practice*, to restore the provision of Transmission Services as soon as reasonably practicable after the relevant condition has ended or no longer requires Powerlink to take action under clause 2.1 ("When reduction allowed").

2.3 No effect on payment of Charges

Any exercise of Powerlink's rights under this clause 2 ("Service reduction") does not affect the Customer's obligations to pay the Charges.

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3. Powerlink Works

The parties acknowledge that the Powerlink Works are for the purposes of providing the *Transmission Services* in accordance with this agreement.

4. Transmission Network Connection Point and Asset Boundaries

- (a) The Transmission Network Connection Point is identified in Schedule 1 ("Connection").
- (b) The Asset Boundaries, the Negotiated Assets, the DCA and the Customer Facility are defined or depicted in Schedule 1 ("Interfaces and Boundaries") of the Works Coordination Agreement.

Part B – Negotiated Assets

5. Contractual arrangements for Owner Assets

5.1 Owner Negotiated Assets

- (a) The Customer acknowledges and agrees that:
 - (i) **(design and construction)** the Owner is responsible for the design and construction of the Owner Negotiated Assets to meet the requirements of the Functional Specification, the Interface Specification and the Detailed Design in accordance with the Works Coordination Agreement; and
 - (ii) **(ownership, operation and maintenance)** on and from the First Practical Completion Date, the Owner Negotiated Assets will be owned by the Owner, but will be operated, maintained and controlled by Powerlink as part of the *Transmission Network*,to enable Powerlink to provide *Transmission Services* to the Customer in accordance with this agreement.
- (b) Powerlink will not be liable to the Customer for, and the Customer hereby releases Powerlink from, any loss, injury, damage or expense suffered or incurred by the Customer in relation to, the design or construction of the Owner Negotiated Assets.

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Part C – Technical terms

6. Technical requirements

6.1 Compliance with technical requirements

The Customer agrees to comply with Schedule 3 (“Technical Requirements (“Load”)”).

6.2 Performance Standards

The parties acknowledge that, for the purposes of the Rules, the technical criteria set out in Schedule 3 (“Technical Requirements (Load)”) are the *Negotiated Access Standards* and the *Performance Standards*.

7. Compliance testing

7.1 Rules to apply

The parties acknowledge that clause [8] (Compliance testing) of the Works Coordination Agreement applies to compliance testing of plant and equipment under this agreement, subject to clause 12 (“Access to facilities”) and clause 8.11 (“Verification”)

7.2 No impediment to testing

Each party agrees not to impede the other’s exercise of its rights under this clause 7 (“Compliance testing”), unless it is entitled to do so under this agreement, the Rules or a law.

8. Disconnection and reconnection

8.1 Emergency disconnection

If Powerlink reasonably believes that the operation of the Customer Facility, the Negotiated Assets, or any part of those assets, pose a threat to *Power System Security* or may lead to damage to the *Transmission Network*, any of the Powerlink Assets or the Negotiated Assets, Powerlink may take any action that it reasonably considers necessary (including disconnection at or about the TNCP) to maintain *Power System Security* or to avoid damage to the *Transmission Network*, the Powerlink Assets or the Negotiated Assets without giving prior notice to the Customer. In exercising its rights under this clause, Powerlink must take reasonable steps to comply with any relevant operational requirements set out in [Schedule 8] (Operational Procedures) in the Works Coordination Agreement.

8.2 Notice of emergency disconnection

Powerlink agrees to inform the Customer of any action it takes under clause 8.1 (“Emergency disconnection”) as soon as is reasonably practicable after taking that action, and of any action Powerlink reasonably believes the Customer must take to avoid the recurrence of the threat to *Power System Security* or the damage to the *Transmission Network*, the Powerlink Assets or the Negotiated Assets (as the case may be).

8.3 Disconnection for Technical Breach

Powerlink may disconnect the Powerlink Assets or the Negotiated Assets (including by disconnection at or about the TNCP) or refuse to connect the Customer Facility (or any part of it) if, in Powerlink’s reasonable opinion (whether as a result of testing under clause 7 (“Compliance testing”) or otherwise), there is a Technical Breach on the part of the Customer that is likely to have a material adverse effect on:

- (a) **(Powerlink’s assets)** the Powerlink Assets;

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- (b) **(Negotiated Assets)** the Negotiated Assets;
- (c) **(network)** the operation of the *Transmission Network* (including the Negotiated Assets); or
- (d) **(users)** other users of the *Transmission Network*.

In exercising its rights under this clause, Powerlink must comply with any relevant operational requirements set out in the Works Coordination Agreement.

8.4 Disconnection for financial breach

- (a) Powerlink may disconnect (including at or about the TNCP) the Customer Facility if:
 - (i) the Customer commits a Customer Financial Breach, until the relevant breach is remedied;
 - (ii) the Customer commits a financial breach of the Works Coordination Agreement, until the relevant breach is remedied;
 - (iii) the Owner commits a financial breach of the Network Operating Agreement or the Works Coordination Agreement, until the relevant breach is remedied, but only if Powerlink does not hold sufficient financial security from the Owner in respect of the amount of such charges and other amounts.
- (b) In exercising its rights under this clause, Powerlink must comply with any relevant requirements in the Network Operating Agreement and the Works Coordination Agreement.

8.5 Notification

Powerlink agrees to give notice to:

- (a) the Customer of any proposed disconnection under clause 8.3 (“Disconnection for Technical Breach”);
- (b) the Customer and the Owner of any proposed disconnection under clause 8.4 (“Disconnection for financial breach ”),

which notice must include:

- (c) **(details)** sufficient detail to enable the Customer and the Owner (as applicable) to identify the nature of the Technical Breach or Owner Financial Breach (as applicable) and to remedy it;
- (d) **(timing)** the date and time of any proposed disconnection (which cannot be sooner than 48 hours after giving the notice); and
- (e) **(remedy timeframe)** the reasonable period of time in which Powerlink considers the Technical Breach or the period of time in which the Owner Financial Breach (as applicable) must be remedied.

8.6 Reconnection

Where Powerlink exercises its right to disconnect under clause 8.1 (“Emergency disconnection”), 8.3 (“Disconnection for Technical Breach”), 8.4 (“Disconnection for

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financial breach”) it must reconnect the Powerlink Assets and the Negotiated Assets (as applicable) as soon as reasonably practicable after the condition leading to the disconnection has ended and all matters relevant to the exercise of the right of disconnection have been rectified to Powerlink’s reasonable satisfaction.

8.7 Liaising with AEMO

Powerlink must use reasonable endeavours to liaise with AEMO about remedying the Technical Breach if it involves non-compliance with a *Performance Standard*.

8.8 Other non-compliance

If a Technical Breach is not likely to have the material adverse effect referred to in clause 8.3 (“Disconnection for Technical Breach”), Powerlink may disconnect (including at or about the TNCP), or refuse to connect, the Customer Facility or the Powerlink Assets (or refuse to commission the Powerlink Works) if the Customer does not:

- (a) **(remedy)** remedy the Technical Breach within the reasonable time (being not less than 10 Business Days) specified in a notice from Powerlink requiring it to do so; or
- (b) **(notify)** notify Powerlink within 24 hours of remedying the Technical Breach.

8.9 Exchange of information

The parties agree to use reasonable endeavours to exchange relevant information to facilitate the remedy of any Technical Breach.

8.10 Customer obligations

Powerlink is not obliged to commission the Powerlink Works, connect or reconnect the Powerlink Assets and the Negotiated Assets (as applicable) or the Customer Facility where it has refused to connect or has disconnected under this clause 8 (“Disconnection or refusal to connect”) unless the Customer has remedied the Technical Breach or taken steps to avoid the recurrence of the threat to the Powerlink Assets and the Negotiated Assets (as applicable) or *Power System Security* to Powerlink’s reasonable satisfaction.

8.11 Verification

Powerlink may inspect and test the Customer Facility (or any relevant part of it) to verify that a Technical Breach has been remedied or that a threat to the Powerlink Assets and the Negotiated Assets (as applicable) or *Power System Security* will not recur if it reasonably considers that verification is necessary. The Customer must co-operate reasonably in carrying out any verification under this clause 8.11 (“Verification”).

8.12 Other disconnection rights and obligations

Nothing in this clause 8 (“Disconnection or refusal to connect”) limits:

- (a) **(termination)** Powerlink’s right to terminate under clause 22.1(b) (“Customer Non-Financial Breach”);
- (b) **(legal rights)** Powerlink’s disconnection rights or obligations under the Electricity Laws; or
- (c) **(automatic disconnection)** the Customer’s disconnection obligations under clause 9 (“Automatic disconnection”).

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9. Automatic disconnection

9.1 Self-disconnection

Despite anything else in this agreement, the Customer must disconnect the Customer Facility from the *Transmission Network* if the operation of any part of the Customer Facility or conditions on the *Transmission Network* might damage or reduce the life of the Customer Facility. The Customer must ensure that detection of these circumstances and disconnection occurs automatically, including by installing all necessary monitoring equipment and redundancy.

9.2 No taking electricity

The Customer must ensure that the Customer Facility (or the applicable parts of it) can be safely disconnected under clause 9.1 (“Self-disconnection”) for an extended period without transferring electricity at the TNCP. In exercising its obligations under this clause, the Customer must comply with any relevant operational requirements set out in the Works Coordination Agreement.

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Part D – Operational terms

10. Operational procedures

- (a) The parties agree to comply with [Schedule 8] ("Operational Procedures") of the Works Coordination Agreement.
- (b) The parties agree to apply and comply with [Schedule 9] ("Works Coordination Plan, HSE, Stakeholder and personnel requirements") of the Works Coordination Agreement in relation to all Interactions between the parties under this agreement as if Schedule 8 of the Works Coordination Agreement expressly referenced those activities.

11. Maintenance

- (a) The Customer is responsible for maintaining (and replacing, when necessary);
 - (i) the Customer Facility; and
 - (ii) the DCA to the extent that it is owned, operated or controlled by the Customer,in accordance with this agreement, *Good Electricity Industry Practice* and any applicable law, including the Electricity Laws.
- (b) Powerlink is responsible for maintaining (and replacing, when necessary) the Powerlink Assets in accordance with this agreement, and any applicable law, including the Electricity Laws and WHS Laws.

12. Access to Customer Facility

The parties acknowledge that access to the Customer Facility is to be provided in accordance with clause [11] (Access to Customer Facility) of the Works Coordination Agreement.

13. Metering

13.1 Metering

Unless specified otherwise under this clause, the applicable parts of Chapter 7 of the Rules apply to:

- (a) **(measurement)** the measurement of the transfer of *Energy* at the Transmission Network Connection Point; and
- (b) **(associated requirements)** associated metering requirements (including, the inspection, auditing and testing of *Metering Installations* and rights of access to data from the *Metering Installations*).

13.2 Rule provisions

In this agreement, and for the purpose of Chapter 7 of the Rules:

- (a) **(Powerlink)** Powerlink is taken to be the *Local Network Service Provider*;
- (b) **(Customer)** the Customer is taken to be the *Market Participant*; and

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- (c) **(Metering Coordinator)** the *Metering Coordinator* for each *Metering Installation* is as shown in Schedule 4 (“Metering”).

13.3 *Metering Installation* responsibilities

- (a) The *Metering Coordinator* for a *Metering Installation* must:
 - (i) **(provide and maintain)** provide, install and maintain that *Metering Installation* or procure a *Metering Provider* to do it; and
 - (ii) **(Rules)** comply with any relevant obligations under the Rules.
- (b) Where a party is the owner of equipment forming part of a *Metering Installation*, that party must, at its cost:
 - (i) **(maintain and test)** maintain and test its equipment to ensure that it meets the necessary standards; and
 - (ii) **(compliance)** if required by the *Metering Coordinator*, provide evidence of compliance.
- (c) The Parties acknowledge that the *Metering Installation* may be tested under the Rules by the *Metering Coordinator* or by AEMO, and that such testing may involve interruption of Transmission Services to the Transmission Network Connection Point.

13.4 *Metering Installation* technical specifications

The technical specifications (including any applicable metering loss factors) and allocation of responsibility for each *Metering Installation* are specified in Schedule 4 (“Metering”).

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Part E – Financial terms

14. Charges

14.1 Commencement of Charges

On and from the Charges Commencement Date, Powerlink will charge the Customer, and the Customer must pay to Powerlink, the Charges for the provision of the Transmission Services and other services provided under this agreement by Powerlink for each Billing Period.

14.2 How Charges are worked out

The Charges for Transmission Services that the Customer must pay to Powerlink are as follows:

- (a) (**negotiated service charges**) charges for the *Negotiated Transmission Services* which are worked out monthly amounts, escalated in accordance with clause 14.9 (“Escalation”) and payable as described in item 1.2 of Schedule 5 (“Charges and other amounts”) (“**Negotiated Service Charges**”); and
- (b) (**non-regulated service charges**) charges for the *Non-Regulated Transmission Services* which are worked out as monthly amounts, escalated in accordance with clause 14.9 (“Escalation”) and payable as described in item 1.3 of Schedule 5 (“Charges and other amounts”) (“**Non-Regulated Service Charges**”); and
- (c) (**prescribed service charges**) charges for the *Prescribed Transmission Services* that apply in accordance with the applicable Electricity Laws and this agreement (“**Prescribed Service Charges**”); and
- (d) (**other charges**) any other amounts set out in Schedule 5 (“Charges and other amounts”).

14.3 Prescribed Service Charges

Powerlink agrees to provide a current copy of the Prescribed Service Charges to the Customer on request.

14.4 Part Billing Periods

Where Charges are incurred for part of a Billing Period, the Charges will be worked out, at Powerlink’s reasonable discretion:

- (a) (**pro-rata**) pro-rata based on the number of days during the Billing Period for which Powerlink provided the services to the Customer; or
- (b) (**energy transfer**) based on the measured energy transfer at the Transmission Network Connection Point during the relevant part of the Billing Period.

14.5 Customer information

The Customer agrees to provide to Powerlink the items specified in Schedule 5 (“Charges and other amounts”) and any other information required by the Electricity Laws or reasonably requested in writing by Powerlink from time to time, to enable Powerlink to work out the Prescribed Service Charges, or any change to them, during the Term.

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14.6 Varying Charges

The Customer agrees that Powerlink may vary the Charges, or the way it works out the Charges, to the extent necessary to reflect:

- (a) **(Electricity Laws)** changes to the Electricity Laws that affect Non-Regulated Service Charges or Prescribed Service Charges or both;
- (b) **(change to electricity transfer)** a significant change to the Customer's electricity transfer at the Transmission Network Connection Point, including where the Customer exceeds the Agreed Power Transfer Capability;
- (c) **(costs adjustment)** any Cost Variation, provided any change to the Charges due to a Cost Variation is determined by Powerlink, acting reasonably, and notified to the Customer not later than 6 months after Completion of the Powerlink Works; or
- (d) **(agreed change)** any variation agreed under clause 14.10 ("Review of Negotiated Service Charges").

14.7 Notice of variation of charges

Powerlink agrees to give the Customer notice of any changes to Charges under clause 14.6 ("Varying Charges") before the change takes effect.

14.8 Additional Taxes

- (a) If any Taxes become payable or are paid by Powerlink in relation to any services provided under this agreement, those Taxes will be added to the Charges payable by the Customer.
- (b) Powerlink agrees to provide the Customer with reasonable information as to the basis on which any additional Taxes are to be added to the Charges as soon as reasonably practicable before that occurs.

14.9 Escalation

The parties agree that the escalation formula set out in item 1.4 of Schedule 5 ("Charges and other amounts") will apply for the escalation of the Negotiated Service Charges and Non-Regulated Service Charges.

14.10 Review of Negotiated Service Charges

- (a) If there are changes to the Electricity Laws or their application or interpretation (including by determinations or decisions of any Commercial Arbitrator or the AER in accordance with the Rules), that materially affect the Negotiated Service Charges or the way Negotiated Service Charges are determined under or in relation to this agreement ("Regulatory Change"), Powerlink may give the Customer a notice setting out a basis for reviewing the Negotiated Service Charges.
- (b) Following receipt by the Customer of a notice given in accordance with this clause, the Customer must negotiate in good faith and use best endeavours to agree upon variations to this agreement (including Schedule 5 ("Charges and other amounts")) necessary to accommodate the Regulatory Change.

14.11 Cost Variation and Lump Sum

If clause 14.6(c) ("costs adjustments") applies, instead of varying the Charges, Powerlink may elect to give the Customer a tax invoice for the lump sum amount of the Cost

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Variation and the Customer must pay this tax invoice in accordance with clause 15.2 (“Payment”).

15. Billing and payment

15.1 Monthly invoice

Powerlink agrees to invoice the Customer as soon as practicable after the end of each Billing Period for any Charges, Taxes and GST payable for that month under this agreement.

15.2 Payment

Unless this agreement states otherwise, the Customer agrees to pay an invoice issued under clause 15.1 (“Monthly invoice”) or any other invoice issued in accordance with this agreement, within 5 Business Days from the date of the invoice by paying the invoiced amount into an account nominated in writing from time to time by Powerlink.

15.3 Default interest

If this agreement requires a party to pay an amount by a due date, then interest accrues daily at the Interest Rate (compounding daily) on that amount from the day after the due date until the day the party pays the outstanding amount plus any accrued interest.

16. Disputed invoices

16.1 Substantiating Charges

Each party must provide any relevant supporting material, data or information reasonably requested (in writing) by the other party to substantiate Charges appearing on an invoice issued under clause 15.1 (“Monthly invoice”).

16.2 Payment of disputed amounts

If the Customer, acting reasonably and in good faith, disputes an item appearing on an invoice issued under clause 15.1 (“Monthly invoice”) (not solely to delay payment of amounts that are properly payable), then the Customer must pay all undisputed amounts on the invoice and 50% of the disputed amounts by the due date and try to resolve the dispute under clause 16.3 (“Resolving dispute”).

16.3 Resolving dispute

The parties must try to resolve any disputes under clause 16.2 (“Payment of disputed amounts”) promptly and in good faith.

16.4 Referral to expert resolution

If the dispute cannot be resolved informally within 10 Business Days of the original due date for payment, either party may initiate the dispute resolution procedure under clause 27 (“Dispute resolution”) in respect of the dispute.

16.5 Payment following resolution

If the resolution of the dispute requires that any outstanding amounts be paid, then those amounts plus interest must be paid within 10 Business Days of resolution of the dispute with interest accruing at the Interest Rate from the original due date for payment.

16.6 Refund following resolution

If the resolution of the dispute requires that any amounts already paid must be refunded, then those amounts plus interest must be refunded within 10 Business Days of resolution

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of the dispute with the interest accruing at the Interest Rate from the date the amounts were paid.

17. Financial Security

17.1 The Financial Security obligation

- (a) The Customer agrees that:
 - (i) **(term of financial security)** it must provide financial security to Powerlink for the period from and including the Security Start Date up to and including the last Security End Date; and
 - (ii) **(continuous maintenance and compliance)** such financial security must be maintained at all times, continuously and in full force and effect during the whole of this period and in all other respects comply with this clause 17 (“Financial Security”).
- (b) Powerlink has agreed:
 - (i) **(stage and shape security)** to stage and shape the financial security arrangement into successive, contiguous and time-linked Security Periods and Security Amounts; and
 - (ii) **(successive and linked securities)** without limiting clause 17.1(a)(ii) (“The Financial Security obligation”), to accept from the Customer the provision of successive, contiguous and time-linked financial securities provided that the financial securities at all times comply with this clause 17 (“Financial Security”).

17.2 Provision of Financial Security

- (a) On or before each Security Provision Date for a Security Period, the Customer must give Powerlink Financial Security so that Powerlink holds Financial Security:
 - (i) **(security amount)** for the Security Amount applicable to the Security Period and taking effect on and from the applicable Security Start Date;
 - (ii) **(secure performance)** to secure on demand, without reference to the Customer, the performance of the Customer’s obligations to pay any amounts to Powerlink under or in connection with this agreement and the Works Coordination Agreement; and
 - (iii) **(compliance)** that at all times complies with clause 17.3 (“Requirements for Financial Security”) and all other provisions of this clause 17 (“Financial Security”),
(“Financial Security”).
- (b) The Customer is taken to have complied with its obligations under clause 17.2(a) (“Provision of Financial Security”), to the extent that, at the relevant Security Provision Date, Powerlink already holds Financial Security that complies with this clause 17 (“Financial Security”) for the Security Amount applicable to the whole of the relevant Security Period, including where, in compliance with clause 17 (“Financial Security”), the Customer has provided to Powerlink Financial Security that secures the Security Amount for the relevant Security Period as well as Security Amounts for other Security Periods.

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17.3 Requirements for Financial Security

- (a) This clause 17.3 (“Requirements for Financial Security”) applies to the provision and acceptance of all Financial Security required to be provided, or otherwise given by the Customer under this clause 17 (“Financial Security”).
- (b) The Customer agrees that Financial Security must, at all times, be:
- (i) **(acceptable bank)** in the form of one or more bank guarantees given by an Australian Bank (lawfully carrying on business under the *Banking Act 1959* (Cth)) that meet the Bank Credit Threshold and which Australian Bank is otherwise acceptable to Powerlink;
 - (ii) **(irrevocable and unconditional)** an irrevocable and unconditional commitment by the Australian Bank to pay, without enquiry or reference to the Customer, the amount demanded by Powerlink, without set-off or counterclaim, up to the Security Amount; applicable to the Security Period;
 - (iii) **(branch)** issued from a branch of the issuing Australian Bank in the City of Brisbane and provide for presentation and payment at that branch;
 - (iv) **(governing law)** be governed by the law of Queensland; and
 - (v) **(other terms)** otherwise on terms acceptable to Powerlink.
- (c) The Customer acknowledges that, in addition to the requirements referred to in clause 17.3(b) and (d) (“Requirements of Financial Security”), in considering the acceptance of a Financial Security, Powerlink will assess:
- (i) **(credit risk)** the credit risk associated with the proposed Financial Security; and
 - (ii) **(risk exposure)** whether any such credit risk exposes Powerlink to financial risk.
- (d) Powerlink may impose reasonable conditions and requirements in connection with the provision and acceptance of Financial Security. An example of a condition/requirement includes – the adjustment of Charges to reflect the assessments made by Powerlink under clause 17.3(c) (“Requirements of Financial Security”).
- (e) The Customer agrees to:
- (i) **(comply with conditions)** comply with any reasonable conditions or requirements imposed by Powerlink under clause 17.3(d) (“Requirements for Financial Security”); and
 - (ii) **(execute documents)** execute any documents requested by Powerlink to give effect to clauses 17.3(d) and (e)(i) (“Requirements for Financial Security”).
- (f) If the Customer does not execute a document requested by Powerlink under clause 17.3(e)(ii) (“Requirements for Financial Security”) within five Business Days of Powerlink submitting the document to the Customer, then the Customer will be deemed to have committed a Customer Financial Breach and the provisions of clause 17.4(c) (“Failure to provide Financial Security”) will apply.

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- (g) This clause does not limit the operation of clauses 17.12 (“Change in circumstances of Customer”) or 17.13 (“Change in circumstances of bank providing Financial Security”).

17.4 Failure to provide Financial Security

- (a) If the Initial Financial Security is not provided, or is not currently in place on or before its applicable Security Provision Date, then Powerlink may stop performing the Powerlink Works, stop providing the Transmission Services or do both of these things, until the Initial Financial Security is provided in accordance with clause 17.2 (“Provision of security”). This breach by the Customer does not constitute a Customer Financial Breach unless clause 17.4(b)(i) (“Failure to provide Financial Security”) applies.
- (b) If the Customer does not:
- (i) **(initial financial security)** provide the Initial Financial Security within one month of its applicable Security Provision Date;
 - (ii) **(all other financial security)** provide or have in place all other Financial Security by its applicable Security Provision Date; or
 - (iii) **(maintain security)** maintain Financial Security in accordance with clause 17.2 (“Provision of Financial Security”),

then such breach will be taken to be a Customer Financial Breach.

- (c) If the Customer commits a Customer Financial Breach referred to in clause 17.3(f) (“Requirements for Financial Security”), clause 17.4(b) (“Failure to provide Financial Security”), clause 17.5(b) (“Replacement Financial Security following payment under Financial Security”), clause 17.12(c) (“Change in circumstances of Customer”) or clause 17.16(d) (“Meaning of Bank Credit Threshold”), then in addition to, and without limiting the rights and remedies available to Powerlink for such Customer Financial Breach, Powerlink may, until the relevant breach is remedied, do any one or more of the following:
- (i) **(stop works)** stop performing any Powerlink Works;
 - (ii) **(not commence works)** refuse to commence or recommence any Powerlink Works;
 - (iii) **(refuse transmission service)** refuse to provide the Transmission Services; or
 - (iv) **(stop transmission service)** stop providing the Transmission Services.

17.5 Replacement Financial Security following payment under Financial Security

- (a) If Powerlink draws or calls on Financial Security, then the Customer must, within 10 Business Days from the date of Powerlink’s notice, provide Powerlink with further Financial Security, that complies with this clause 17 (“Financial Security”), to ensure that the total amount secured by Financial Security held by Powerlink for the applicable Security Period, at all times, is at least equal to the applicable Security Amount.
- (b) If the Customer has not provided the further Financial Security in accordance with clause 17.5(a) (“Replacement Financial Security following payment under

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Financial Security”), then the Customer will be taken to be in Customer Financial Breach and the provisions of clause 17.4(c) (“Failure to provide Financial Security”) will apply.

17.6 Right to access Financial Security

Powerlink may draw or call on Financial Security in satisfaction of any of the following amounts, where the amounts (or part of them) have not been paid by the Customer to Powerlink:

- (a) **(unpaid amounts)** amounts that are due and payable by the Customer to Powerlink under or in connection with this agreement (including, without limitation, clause 23) or the Works Coordination Agreement;
- (b) **(damages)** any damages or other amounts awarded by a court against the Customer in Powerlink's favour under or in connection with this agreement or the Works Coordination Agreement;
- (c) **(agreed settlements)** any damages, compensation, indemnity or settlement amounts agreed between the parties in relation to either or both of this agreement and the Works Coordination Agreement; and
- (d) **(breach)** any reasonable costs, charges and expenses incurred or losses suffered by Powerlink because the Customer has failed to comply with its obligations under this agreement or the Works Coordination Agreement.

17.7 Procedure before accessing Financial Security

Before exercising its right under clause 17.6 ("Right to access Financial Security"), Powerlink must give the Customer:

- (a) **(notice)** notice of the amount to be drawn or called on from the Financial Security; and
- (b) **(payment)** three Business Days from receiving the notice to pay that amount.

17.8 Other rights

Exercising its rights under clause 17.6 ("Right to draw or call on Financial Security") does not merge, extinguish, postpone, lessen, waive or limit any of Powerlink's other rights or remedies against the Customer under this agreement or the Works Coordination Agreement.

17.9 Return of Financial Security on provision of further Financial Security for the next Security Period

Subject to clauses 17.1 (“The Financial Security Obligation”) and 17.11 (“Outstanding claims”), Powerlink must, on the applicable Security End Date return the expiring Financial Security held by Powerlink to the Customer promptly after Powerlink receives from the Customer further Financial Security, for the next Security Period, in a form that complies with this clause 17 (“Financial Security”).

17.10 Return of Financial Security on expiry and termination

- (a) Subject to clause 17.11 ("Outstanding claims"), Powerlink must return the Financial Security to the Customer:

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- (i) **(after expiry)** where the agreement expires, on the day that is one month after the last Security End Date; and
 - (ii) **(after termination)** where the agreement is terminated, on the day that is three months after termination of this agreement.
- (b) However, Powerlink may agree to return the Financial Security earlier if Powerlink does not believe it is necessary for the Customer to maintain the Financial Security for the relevant stipulated period of time.

17.11 Outstanding claims

Clauses 17.9 ("Return of Financial Security on provision of further Financial Security for the next Security Period") and 17.10 ("Return of Financial Security on expiry and termination") do not apply if the Customer has an actual or contingent liability to Powerlink for any amount or amounts of the kind referred to in clause 17.6 ("Right to draw or call on Financial Security") at the applicable date (including any amount under clause 17 ("Termination costs")). In that case, the date for return of the Financial Security is the next Business Day after all claims have been finalised.

17.12 Change in circumstances of Customer or Owner

- (a) Powerlink may, by notice, request the Customer to provide a New Financial Security for an amount greater or less than the Security Amount, at any time during the Term, taking into account any one or more of the following factors:
- (i) **(prudential)** any material change in the financial strength of the Customer (for example, after an assignment or Change in Control of the Customer); or
 - (ii) **(remaining payments)** the remaining payments the Customer owes Powerlink in connection with this agreement and the Works Coordination Agreement; or
 - (iii) **(Owner financial security)** if the Owner is in breach of any of its obligations to provide financial security (including further financial security) under the Network Operating Agreement.
- (b) Powerlink must act reasonably in making a request under this clause 17.12 ("Change in circumstances of Customer or Owner").
- (c) The Customer must comply with any reasonable request under this clause 17.12 ("Change in circumstances of Customer or Owner") within 10 Business Days from the date of Powerlink's notice and a failure to do so will be deemed to be a Customer Financial Breach and the provisions of clause 17.4(c) ("Failure to provide Financial Security") will apply.

17.13 Change in circumstances of bank providing Financial Security

- (a) The Customer must immediately notify Powerlink if the bank that issued a Financial Security that has been provided by the Customer to Powerlink under this clause 17 ("Financial Security") fails to hold and maintain a credit rating in accordance with the Bank Credit Threshold.
- (b) Powerlink may, by notice, request the Customer to provide a New Financial Security for an amount greater or less than the Security Amount, at any time during the Term, if the bank issuing a Financial Security fails to hold and maintain a credit rating in accordance with the Bank Credit Threshold, whether or not Powerlink has

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been given a notice under clause 17.13(a) (“Change in circumstances of bank providing Financial Security”).

- (c) The Customer must comply with a notice from Powerlink under clause 17.13(b) (“Change in circumstances of bank providing Financial Security”) within 10 Business Days from the date of Powerlink’s notice and a failure to do so will be taken to be a Customer Financial Breach and the provisions of clause 17.4(c) (“Failure to provide Financial Security”) will apply.

17.14 Customer may request swap of Financial Security

- (a) In this clause 17.14 (“Customer may request swap of Financial Security”) a “**Financial Swap Condition**” means:
 - (i) (**existing Financial Security**) a Financial Security has been provided by the Customer to Powerlink under this clause 17 (“Financial Security”);
 - (ii) (**request for swap**) the Customer, by notice to Powerlink, requests Powerlink to accept a New Financial Security to replace the existing Financial Security;
 - (iii) (**compliance**) the New Financial Security complies with this clause 17 (“Financial Security”);
 - (iv) (**accepting new financial security**) Powerlink agrees to accept the New Financial Security in replacement of the existing Financial Security; and
 - (v) (**provision of new financial security**) the Customer provides the New Financial Security to Powerlink.
- (b) If a Financial Swap Condition is satisfied for a Financial Security, then Powerlink agrees to return the existing Financial Security to the Customer at the same time as the Customer provides the New Financial Security.

17.15 Liability of provider of Financial Security

- (a) The liability of the provider of a Financial Security is not affected by:
 - (i) (**changed terms**) any variation, change, alteration or amendment of this agreement; or
 - (ii) (**changed Customer**) any Change in Control or transfer or assignment by the Customer of any of its rights under this agreement, whether with or without the consent of Powerlink.
- (b) The Customer consents to the provisions of this clause 17.15 (“Liability of provider of Financial Security”) and must ensure that its provisions are agreed to by the provider of the Financial Security and set out in the relevant security instrument.

17.16 Meaning of Bank Credit Threshold

- (a) In this clause 17 (“Financial Security”), “Bank Credit Threshold” means, for an Australian Bank, the long term senior credit rating of the bank as determined by Standard and Poor’s to be not less than A-.
- (b) If after the Start Date, any of the following circumstances occur, either generally or for a Financial Security, or a bank giving a Financial Security:

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- (i) **(change in methodology)** Standard and Poor’s materially changes the methodology it uses to determine credit ratings (as determined by Powerlink);
- (ii) **(change in description)** Standard and Poor’s changes the description or nomenclature of the credit ratings;
- (iii) **(ceases to exist)** Standard and Poor’s ceases to exist;
- (iv) **(no longer determines)** Standard and Poor’s no longer determines, issues or assigns credit ratings; or
- (v) **(no longer appropriate)** Powerlink, acting reasonably, determines that the Standard and Poor’s is no longer an appropriate organisation for the assessment of credit risk for the purposes of this agreement,

then Powerlink may, by notice to the Customer, take any one or more of the following actions:

- (vi) **(nominate alternative)** nominate an alternative ratings agency, provided that the agency is recognised in global financial markets as a major and reputable ratings agency and once notified the nominated ratings agency is then taken to be the ratings agency for the purposes of this clause 17 (“Financial Security”); or
 - (vii) **(revise Bank Credit Threshold)** revise the Bank Credit Threshold, for a Financial Security, or the bank giving the Financial Security, provided that the revised Bank Credit Threshold must (as far as reasonably practicable) correspond to the Bank Credit Threshold for the relevant Financial Security or entity as at the Start Date.
- (c) If clause 17.16(b)(“Meaning of Bank Credit Threshold”) applies, Powerlink must give the Customer a notice setting out its determination.
 - (d) The Customer agrees to comply with Powerlink’s determination as contained in the notice under clause 17.16(b) (“Meaning of Bank Credit Threshold”). The Customer agrees to execute any documents requested by Powerlink to give effect to clauses 17.16(b) and (c) (“Meaning of Bank Credit Threshold”). If the Customer does not execute a document within five Business Days of Powerlink submitting the document to the Customer, then the Customer will be deemed to have committed a Customer Financial Breach and the provisions of clause 17.4(c) (“Failure to provide Financial Security”) will apply.

18. Insurance

The parties acknowledge that clause [20] of the Works Coordination Agreement details insurance required to be held by the parties.

19. Costs and duty

The parties acknowledge that clause [21] (Costs and duty) of the Works Coordination Agreement details their responsibilities as to expenses and duty.

20. GST

The parties acknowledge that clause [22] (GST) of the Works Coordination Agreement details their responsibilities as to GST.

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Part F – Term and Termination

21. Term

21.1 Term of agreement

This agreement has effect during the Term. The “**Term**” starts on the Start Date and ends on the End Date, unless extended under clause 21.2 (“Automatic monthly extension”) or terminated earlier under clause 22 (“Termination”).

21.2 Automatic monthly extension

After the initial End Date, this agreement is automatically extended on a month by month basis on the same terms and conditions and the End Date in the Details is correspondingly extended until the agreement is terminated under clause 22.7 (“Termination of extended agreement”).

21.3 Commencement of Parts

The parties agree:

- (a) Part B (Negotiated Assets), Part E (Financial terms), Part F (Term and Termination) and Part G (Legal terms) of this agreement apply on and from the Start Date until the End Date; and
- (b) Part A (Transmission Services) and Part C (Technical terms) of this agreement apply on and from the Load Energisation Date until the End Date.

22. Termination

22.1 Termination by Powerlink for Customer breach

Powerlink may terminate this agreement by notice to the Customer where the Customer breaches this agreement or another Project Document and fails to remedy the breach:

- (a) **(Customer Financial Breach)** for a Customer Financial Breach, within 10 Business Days of receiving notice requiring it to do so; or
- (b) **(Customer Non-Financial Breach)** for a Customer Non-Financial Breach, within the reasonable period of time specified in the notice.

22.2 Termination for insolvency

A party may, provided the party is not prohibited from doing so under the Ipso Facto Laws, terminate this agreement by notice to the other party where the other party is Insolvent. A party who becomes Insolvent must immediately notify the other party.

22.3 Termination due to termination of the Works Coordination Agreement

If the Works Coordination Agreement is terminated for any reason, Powerlink may terminate this agreement by notice to the Customer.

22.4 Termination due to termination of the Network Operating Agreement

If the Network Operating Agreement is terminated for any reason, Powerlink may terminate this agreement by notice to the Customer.

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This clause does not apply if Powerlink exercises its option to purchase the Owner Negotiated Assets under the Network Operating Agreement unless the Owner is in breach of its obligations in connection with the sale of the Owner Negotiated Assets to Powerlink.

22.5 Termination by Customer for convenience

The Customer may terminate this agreement for convenience:

- (a) **(before Completion Date)** before the Completion Date, immediately by giving Powerlink notice and the termination takes effect on the date that Powerlink receives the notice from the Customer; or
- (b) **(after Completion Date)** on or after the Completion Date and before the End Date, by giving Powerlink six months' notice and the termination takes effect on the date that is six months after the date that Powerlink receives the notice from the Customer.

22.6 Termination by Powerlink for Extended Force Majeure

Powerlink may terminate this agreement in accordance with clause 29.8 ("Extended Force Majeure").

22.7 Termination of extended agreement

If this agreement has been renewed under clause 21.2 ("Automatic monthly extension"), either party may terminate the agreement by giving one month's notice to the other party any time after the initial End Date.

22.8 Termination by Powerlink for Customer Repeated Breach

Powerlink may terminate this agreement by notice to the Customer where the Customer commits a Customer Repeated Breach. When providing notice to the Customer of a third or subsequent breach as referred to in the definition of "Customer Repeated Breach", Powerlink agrees to also send a copy of the notice to the Chief Executive/Managing Director (or equivalent position) of the Customer.

22.9 Termination for Change in Control

- (a) There is to be no Change in Control of the Customer without Powerlink's prior written consent.
- (b) The Customer must provide Powerlink with notice of any Change in Control of the Customer, including any imminent or proposed Change in Control of the Customer. The notice must include sufficient details of the Change in Control and the Customer agrees to promptly provide Powerlink with information requested by Powerlink about the nature and effect of the Change in Control.
- (c) Powerlink may terminate this agreement by notice to the Customer where there is a Change in Control of the Customer without Powerlink's prior written consent.
- (d) Before exercising a right of termination under this clause 22.9 ("Termination by Powerlink for Change in Control"), Powerlink must provide the Customer with a notice of its intention to terminate this agreement and allow the Customer five Business Days from the date of the notice to obtain Powerlink's written consent to the Change in Control of the Customer.

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23. Termination Costs

If this agreement terminates after the Start Date and before the End Date, then (in addition to any other money payable by the Customer to Powerlink under this agreement), the Customer agrees to pay Powerlink the Termination Costs in accordance with Schedule 5 (“Charges and other amounts”), item 2 (“Termination costs”).

24. After expiry or termination

24.1 Removal of infrastructure

On termination by either party, or on expiry, Powerlink may de-energise and disconnect the Customer Facility at the Transmission Network Connection Point and may decommission and remove any Powerlink Assets associated with the provision of Transmission Services under this agreement.

24.2 Survival of terms

Termination or expiry of all or part of this agreement for any reason does not affect:

- (a) **(prior rights)** any rights of any party against another party that:
 - (i) arose before the termination or expiry; and
 - (ii) otherwise relate to any breach or non-observance of this agreement occurring before termination or expiry; or
- (b) **(certain clauses)** the rights and obligations of the parties under this clause 24 (“After expiry or termination”) and clauses 15 (“Billing and Payment”), 22 (“Termination”), 23 (“Termination Costs”), 25 (“Liability and Indemnity”) and 28 (“Confidentiality”) and any other clauses to the extent they are necessary for the interpretation or effectiveness of these clauses.

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Part G - Legal terms

25. Liability and indemnity

25.1 Liability excluded

Subject to clause [5.6] (“Powerlink Delay”) of the Works Coordination Agreement and item 1 of Schedule 2 (“Delays in Powerlink Works”), as far as the law permits, and unless specified otherwise in this clause 25 (“Liability and indemnity”), a party (“**First Party**”) will not be liable to the other party (“**Affected Party**”) for any loss, injury, damage or expense suffered or incurred by the Affected Party in relation to the Project Documents (whether in contract, tort or otherwise), except for:

- (a) Payment of Charges;
- (b) Direct Loss; and
- (c) Third Party Claims,

for each of which the First Party agrees to accept liability in accordance with this agreement.

25.2 Indemnity

Subject to clause 25.4, a First Party indemnifies the Affected Party and its officers, employees and agents, against any Third Party Claim against the Affected Party that results in loss, damage or expense to the Affected Party arising out of or in connection with:

- (a) (**breach**) a breach of the Project Documents by the First Party;
- (b) (**misconduct**) acts or omissions of the First Party that are wilful, negligent or done in bad faith; or
- (c) (**illegality**) a breach of the Rules, the Electricity Laws or other relevant laws by the First Party.

25.3 Indemnity for Owner Financial Breach

- (a) This clause applies if the Owner is in breach of its obligation to provide financial security under the Network Operating Agreement.
- (b) The Customer indemnifies Powerlink for the amount of any charges and other amounts the subject of an Owner Financial Breach.
- (c) The liability of the Customer under this clause is limited to the lesser of:
 - (i) the value of financial security required to be provided by the Owner to Powerlink under the terms of the Network Operating Agreement; and
 - (ii) an amount equal to the value of financial security required to be provided by the Owner to Powerlink minus the value of financial security held by Powerlink under the terms of the Network Operating Agreement.

25.4 Limitation of liability for Direct Loss

- (a) Subject to clause [5.6] (“Powerlink Delay”) of the Works Coordination Agreement and item 1 of Schedule 2 (“Delays in Powerlink Works”), the parties agree that a

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First Party's liability to the Affected Party for Direct Loss is limited as follows: **(aggregate)** a First Party's aggregate liability to the Affected Party for the total of all claims for Direct Loss in relation to the Project Documents will not exceed the Aggregate Cap stated in item 5 ("Liability caps") of Schedule 5 ("Charges and other amounts"); and

- (b) **(expiry)** a First Party will not be liable to an Affected Party for Direct Loss if 12 months elapses from the time that the right to make the claim accrues and the Affected Party has not instituted legal proceedings to enforce the claim.

25.5 Liability excluded for failure of Owner Negotiated Assets

Notwithstanding the indemnity in clause 25.2, as far as the law permits, Powerlink will not be liable to the Customer for any loss, injury, damage or expense suffered or incurred by the Customer in relation to the Project Documents (whether in contract, tort or otherwise) as a result of or in connection with:

- (a) **(defects in the Owner Negotiated Assets)** defects in, poor performance or failure of, the Owner Negotiated Assets other than as a result of Powerlink's negligence, breach of law or breach of the Network Operating Agreement; or
- (b) **(negligence of or breach by Owner)** the negligence of the Owner or a breach of the Network Operating Agreement by the Owner.

25.6 Particular exclusions: disconnection and reduced services

Despite any other clause in the Project Documents, Powerlink will not be liable for any loss, injury, damage or expense the Customer suffers or incurs as a direct or indirect result of:

- (a) **(failure to acquire approvals)** Powerlink's delay in acquiring, or failure to acquire, any Works Approval (if it has used reasonable endeavours to obtain those Works Approvals), or Powerlink exercising its right of termination under clause [1.4] (No Works Approvals for Powerlink) of the Works Coordination Agreement;
- (b) **(decommissioning)** a party exercising its rights under clause 24.1 ("Removal of infrastructure") other than in relation to any property damage caused by the exercise of those rights;
- (c) **(service reduction)** Powerlink exercising its rights under clause 2.1 ("When reduction allowed"), but this does not exclude liability for failing to comply with clause 2.2 ("Mitigation");
- (d) **(Powerlink disconnection)** Powerlink exercising its rights under clauses 8.1 ("Emergency disconnection"), 8.3 ("Disconnection for technical breach"), 8.4 ("Disconnection for financial breach") or clause 8.8 ("Other non-compliance");
- (e) **(Negotiated Assets disconnection)** Powerlink exercising its rights under clause [18] ("Disconnection") of the Network Operating Agreement.
- (f) **(automatic disconnection)** the Customer failing to comply with clause 9 ("Automatic disconnection"); or
- (g) **(access)** Powerlink not having the benefit of the [Powerlink Minimum Land Access Requirements] or the NAPA Rights.

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25.7 Conduct of Third Party Claims

If a Third Party Claim is made against an Affected Party and the Affected Party wishes to rely on the indemnity in clause 25.2 (“Indemnity”), then the Affected Party agrees:

- (a) (**notice**) to notify the First Party about the Third Party Claim within 10 Business Days of receiving it;
- (b) (**settlement**) not to settle or pay the Third Party Claim without the First Party’s consent (which may not be unreasonably withheld); and
- (c) (**carriage of litigation**) if requested to do so, to not unreasonably refuse to allow the First Party to conduct proceedings relating to the Third Party Claim in the Affected Party’s name, provided the Affected Party:
 - (i) is reasonably secured for costs arising from such a proceeding; and
 - (ii) is permitted to do so under law and by its insurers.

25.8 Exclusions under National Electricity Law

Where the operation of the National Electricity Law would, in the absence of this clause 25 (“Liability and indemnity”), exclude any liability that the First Party has to the Affected Party for any Direct Loss or Third Party Claim (“**Relevant Exclusion**”), then despite anything in this clause 25 (“Liability and indemnity”), the First Party’s liability will be determined on the basis that it is entitled to claim the benefit of the Relevant Exclusion.

25.9 Limitations under National Electricity Law

Where the operation of the National Electricity Law would, in the absence of this clause 25 (“Liability and indemnity”), limit or reduce any liability that the First Party has to the Affected Party for any Direct Loss or Third Party Claim, whether by way of a per event liability cap or an aggregate liability cap (“**Relevant Limitation**”) and the Relevant Limitation is more favourable than a limitation of liability provided under this clause 25 (“Liability and indemnity”), the First Party’s liability will be determined on the basis that it is entitled to claim the benefit of the Relevant Limitation.

25.10 Other statutory limitations of liability preserved

Except to the extent expressly stated in this clause 25 (“Liability and Indemnity”), nothing in the Project Documents waives, varies or excludes the operation of any statutory limitations of liability available to Powerlink (or its officers and employees), including the applicable sections of the New National Electricity Law, the National Electricity (South Australia) Regulations 1998 and the Electricity Laws.

25.11 Mitigation

A party must take reasonable steps to mitigate the extent of any:

- (a) (**direct loss**) Direct Loss that it suffers or incurs; and
- (b) (**third party claim**) loss, damage or expense that it suffers or incurs resulting from a Third Party Claim.

25.12 Contribution to loss suffered

If a party makes a claim against the other party under the Project Documents and the party making the claim has contributed to the loss that it has suffered, any entitlement to

Customer Connection and Access Agreement

damages or compensation of the party making the claim will be proportionally reduced, taking into account the extent to which it has contributed to the loss.

25.13 Exclusion of Warranties

Subject to the *Competition and Consumer Act 2010* (Cth) and the express provisions of the Project Documents, all warranties, terms, conditions and guarantees about the provision of the Transmission Services and the supply of electricity to the Customer that may be implied or imposed by use, statute or otherwise are excluded to the maximum extent allowed by law.

26. Compliance with the Rules

26.1 General Compliance

Each party must comply with its relevant obligations under the Rules.

26.2 Customer Compliance

The Customer must:

- (a) **(not registered)** where it is not a *Registered Participant*, comply with the Rules as if it were, for the purposes of this agreement; and
- (b) **(taking electricity)** comply with the relevant obligations imposed on a *Customer* under the Rules (whether or not it is registered as a *Customer*).

26.3 Non-compliance

A breach of clause 26.1 (“General compliance”) or 26.2 (“Customer Compliance”) is not grounds for terminating this agreement. This clause does not take away any right to terminate on other grounds arising out of the same conduct, if they exist.

26.4 Inconsistency

To avoid any doubt, if there is an inconsistency between clause 26.1 (“General compliance”) and any other obligation of a party under this agreement (“**Inconsistent Obligation**”):

- (a) **(Rules prevail)** clause 26.1 (“General compliance”) prevails; and
- (b) **(no breach)** the failure of a party to comply with the Inconsistent Obligation is not a breach of this agreement and does not give rise to any remedy under this agreement for non-compliance with the Inconsistent Obligation.

26.5 Notice of inconsistency

A party that intends to rely on clause 26.4 (“Inconsistency”) must notify the other party as soon as practicable after it becomes aware of the inconsistency.

26.6 Rule standards

Unless this agreement expressly states otherwise, where the Rules and this agreement each require performance of an act to a particular standard, and the Rules do not allow the parties to negotiate about the standard, the standard in the Rules takes precedence (even if it is less onerous). In that case, failure to comply with the more onerous requirements of this agreement is not a breach.

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27. Dispute resolution

The parties acknowledge that the dispute resolution procedure in clause [28] of the Works Coordination Agreement must be used to resolve any dispute that arises between the parties under this agreement (other than disputes under clause 30 (“Re-negotiating agreement”)).

28. Confidentiality

The parties acknowledge that all Confidential Information (as defined in the Works Coordination Agreement), and the fact of its existence, is to be held and kept confidential by the parties in accordance with clause [29] (Confidentiality) of the Works Coordination Agreement.

29. Force Majeure

29.1 Suspension of obligations

If a party to this agreement is unable wholly or in part to perform any Non-Financial Obligation under this agreement on time and as required because of the occurrence of a Force Majeure Event (whether occurring before or after the Start Date), then for the duration of the Force Majeure Event, the rights and Non-Financial Obligations of the parties under this agreement will be suspended in whole or in part, as the case may require, to the extent that the ability of a party (the “**Affected Party**”) to perform any of its Non-Financial Obligations is adversely affected by a Force Majeure Event.

29.2 Effect of Force Majeure Event

Suspension of any Non-Financial Obligations under clause 29.1 (“Suspension of obligations”) does not affect any rights or obligations that may have accrued prior to the suspension or, if the Force Majeure Event affects only some Non-Financial Obligations, any other obligations or rights of the parties.

29.3 Mitigation of Force Majeure Event

Subject to clause 29.6 (“End of Force Majeure Event”), the Affected Party must use reasonable endeavours to remove, overcome or minimise the effects of the Force Majeure Event as quickly as possible, and the other party must cooperate and give such assistance as the Affected Party may reasonably request in connection with the Force Majeure Event.

29.4 Failure to mitigate

The period of suspension under clause 29.1 (“Suspension of obligations”) will exclude any delay in the Affected Party’s performance of those Non-Financial Obligations attributable to a failure by the Affected Party to comply with clause 29.3 (“Mitigation of Force Majeure Event”).

29.5 Industrial action

Nothing in this clause 29 (“Force Majeure”) requires the Affected Party to settle any industrial dispute in any way it does not want to.

29.6 End of Force Majeure Event

The Affected Party must resume performance of any suspended obligation as soon as possible after the Force Majeure Event ends.

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29.7 Notice of Force Majeure Event

If a party reasonably considers that a Force Majeure Event has occurred or continues to occur affecting it, it must:

- (a) **(initial notice)** notify the other party of the circumstances and affected obligations;
- (b) **(regular update)** keep the other party informed reasonably regularly of the likely duration of the Force Majeure Event and the mitigation action being taken; and
- (c) **(end)** notify the other party when the Force Majeure Event ends or has been successfully mitigated.

29.8 Extended Force Majeure

Powerlink may notify the Customer that this agreement is terminated if:

- (a) a party has notified the other party of a Force Majeure Event under clause 29.7 (“Notice of Force Majeure Event”); and
- (b) either:
 - (i) the Force Majeure Event has continued for more than 6 months from the date of the notice; or
 - (ii) in Powerlink’s reasonable opinion, the Force Majeure Event has and is likely to continue to have a material adverse effect on the ability of either party to comply with its obligations under clause 1 (“Transmission Services”) for a substantial period of time.

30. Re-negotiating agreement

The parties acknowledge that clause 31 (Re-negotiating Project Documents) of the Works Coordination Agreement provides for the parties to negotiate changes to this agreement to accommodate a relevant Change Event or Configuration Change.

31. General

31.1 Contact details

- (a) Prior to the Second Practical Completion Date, the parties' contact details for notices are set out in the Works Coordination Agreement.
- (b) On and from the Second Practical Completion Date, the parties' contact details for notices are set out in Schedule 6.
- (c) A party may notify the other in writing from time to time of any change to the contact details for operational communications and notices.

31.2 Dictionary

Defined terms in this agreement are contained in Schedule 8 (“Dictionary”).

EXECUTED as an agreement.

Load Connection and Access Agreement

Schedule 1 – Connection

1. Transmission Network Connection Point

- (a) The Transmission Network Connection Point (TNCP) is identified in the diagrams in item 5 in this Schedule 1.
- (b) All *Performance Standards* for the connected Load are specified at the Transmission Network Connection Point.

2. Power Transfer Capability

2.1 Agreed Power Transfer Capability

The Agreed Power Transfer Capability at the Transmission Network Connection Point at [yy] kV is:

2.2 Energy and Load forecasts

Customer agrees to provide to Powerlink by 31 October each year unless otherwise agreed, annual energy forecasts for the following ten Financial Years and load forecasts for the following 5 years in the format specified in Schedule 5.7 (“Annual Forecast Information for Planning Purposes”) of the Rules.

3. Asset Boundary & responsibilities

The Asset Boundaries are identified in item [4] (Boundary Diagrams) of Schedule 1 (Interfaces and Boundaries) of the Works Coordination Agreement.

4. Customer Facility

The Customer Facility comprises [xx]

5. Diagrams

[Insert diagram identifying TNCP]

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Schedule 2 – Delays in Powerlink Works

1. Liquidated damages

1.1 Powerlink to pay liquidated damages for delay

Subject to:

- (a) items 1.2(a) to (f) of this Schedule 2; and
- (b) clauses [5.6] (Powerlink Delay) of the Works Coordination Agreement,

if the Powerlink Works are not Completed under the Works Coordination Agreement by the Target Load Connection Date (as defined in the Works Coordination Agreement), Powerlink must pay to the Customer, as a debt due and payable to the Customer, liquidated damages in accordance with the table below for every day after the Target Load Connection Date to and including the day that the Powerlink Works are Completed.

Period after Target Load Connection Date	Liquidated Damages payable per day
For week 1 to week 6	\$xxx

1.2 Scope of liquidated damages

Powerlink and the Customer agree that the amounts payable under item 1.1 ("Powerlink to pay liquidated damages for delay") of this Schedule 2 ("Delays in Powerlink works"):

- (a) **(not penalty)** are, and are intended to be, a reasonable and good faith pre-estimate of the anticipated or actual loss or damage suffered or incurred by the Customer because of the delay in Completion, and are not a penalty;
- (b) **(sole remedy)** subject to item (f) below, are the Customer's sole remedy under this agreement for any liability for failure by Powerlink to Complete the Powerlink Works by the Target Load Connection Date, however that failure is caused or contributed to (including negligence, breach of contract or otherwise) and, to avoid doubt, clause 25 ("Liability and indemnity") will not apply to the amounts payable under item 1.1 ("Powerlink to pay liquidated damages for delay") of this Schedule 2 ("Delays in Powerlink works");
- (c) **(capped)** will not exceed [insert];
- (d) **(payable on demand)** any liquidated damages which are payable pursuant to item 1.1 ("Powerlink to pay liquidated damages for delay") of this Schedule 2 ("Delays in Powerlink works") will be payable by Powerlink to the Customer upon demand;
- (e) **(set off)** can be set off against any money owing by the Customer to Powerlink;
- (f) (common law) if the liquidated damages payable under item 1.1 ("Powerlink to pay liquidated damages for delay") of this Schedule 2 are found for any reason to be void, invalid or otherwise unenforceable so as to disentitle the Customer from

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recovering those liquidated damages, then the Customer is entitled to recover from Powerlink damages at common law for Powerlink's failure to Complete the Powerlink Works by the Target Load Connection Date. Powerlink's liability for any such common law damages will not exceed the amount of liquidated damages that would have been payable under item 1.1 ("Powerlink to pay liquidated damages for delay") of this Schedule 2 if those liquidated damages had been enforceable.

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Schedule 3 – Performance Standards (Customer)

PERFORMANCE STANDARDS

[The following table outlines the information AEMO and Powerlink require to assess compliance with the performance standards for the generating unit / system.]

[performance standards to be inserted]

Load Connection and Access Agreement

Schedule 4 – Metering (clause 13)

1. Metering System

- 1.1** Powerlink is the *Metering Coordinator* (Participant ID PLINKP) for the *Metering Installation*.
- 1.2** Powerlink is the Local Network Service Provider (LNSP) (Participant ID PLINKP).
- 1.3** The Customer appoints the *Financially Responsible Market Participant* (FRMP).
- 1.4** The *Metering Coordinator* reserves the right to appoint Powerlink as the *Metering Provider* part B (**MPB**) (Participant ID PLINKMP) to install and maintain the revenue metering at the *Metering Installation*. Where the Customer nominates Powerlink as a replacement *Metering Coordinator*, Powerlink, as the *Metering Coordinator*, will facilitate the MPB change with a minimum of 6 months written notice from the Customer. Where the Customer initiates a replacement *Metering Coordinator*, then the Customer agrees to pay to Powerlink all of Powerlink’s internal and external costs, expenses and charges (including a reasonable amount for Powerlink’s profit and overhead) in connection with the *Metering Coordinator* replacement (“**Metering Coordinator Change Over Costs**”). The Customer must pay any Metering Coordinator Change Over Costs within 5 Business Days of receiving a tax invoice from Powerlink for these costs.
- 1.5** The metering type, maximum throughput MWh, and CT ratio minimum percentage of instantaneous MW for the *Metering Installation* are set out in the table below.
- 1.6** No devices, meters or other equipment, of any kind, are permitted to be installed, added or attached, by the Customer or any other person, to the *Metering Installation*.
- 1.7** For devices required by the Customer that involve metering class CT inputs, the Customer must, at its cost and expense, install a separate CT core at its Customer Facility.
- 1.8** Secondary System devices that are installed inside Powerlink owned buildings and panels will be itemised and recorded by Powerlink. No unauthorised access is permitted to the *Metering Installation*.
- 1.9** The specified inspection and testing requirements set out in this Schedule for the metering type must be facilitated and allowed by the Customer for the *Metering Installation*, as required from time to time by the *Metering Coordinator*. The Customer agrees to Powerlink’s reasonable request for compliance testing outages consisting of normal business hours as required during the day of testing on the frequency set out in the table below.

2. Technical Specifications for Metering

2.1 Metering Location

The locations of the *Metering Installations* are defined in Schedule 1 of the Works Coordination Agreement.

2.2 Metering Specification

Connection Point	xxx
Connection TNI	xxx
Metering Installation Site	xxx
Metered Item	xxx

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Meter Type	xxx
Owner - Current Transformer	xxx
Owner - Voltage Transformer	xxx
Owner - Meters and Recorders	xxx
Owner - Infrastructure and Wiring	xxx
Metering Coordinator	xxx
Maximum throughput (GWh)	xxx
CT Ratio (Min. % MW)	xxx

2.3 Metering Inspection and Testing Schedule

Inspection and Testing Schedule								
Equipment	Inspection				Accuracy Testing			
	Type 1	Type 2	Type 3	Type 4	Type 1	Type 2	Type 3	Type 4
Meter	2.5 yrs.	2.5 yrs.	2.5 yrs.	5 yrs.	5 yrs.	5 yrs.	5 yrs.	5 yrs.
CT					10 yrs.	10 yrs.	10 yrs.	10 yrs.
VT					10 yrs.	10 yrs.	10 yrs.	10 yrs.

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Schedule 5 – Charges and other amounts

1. Charges & Prices (Clause 14)

1.1 Charges for Transmission Services under this agreement

The parties agree that the Charges referred to in clause 14.2 (“How Charges are worked out”) comprise the following:

- (a) **(negotiated)** the Negotiated Service Charge for the *Negotiated Transmission Services* (as set out in item 1.2 (“Negotiated Service Charges”) of this Schedule 5 (“Charges and other amounts”));
- (b) **(non-regulated service charges)** the Non-Regulated Charges for the *Non-Regulated Transmission Services* as set out in item 1.3 (“Non-Regulated Service Charges”) of this Schedule 5 (“Charges and other amounts”); and
- (c) **(prescribed)** the Prescribed Service Charges for the *Prescribed Transmission Services* which are determined in accordance with the Electricity Laws and this agreement.

1.2 Negotiated Service Charges

Negotiated Service Charges of \$xxx per month (as at [insert relevant Quarter reference]), exclusive of GST, will commence on and from the Charges Commencement Date and the monthly Charge will be escalated in accordance with item 1.4 of this Schedule 5 (“Charges and other amounts”).

1.3 Non-Regulated Service Charges

Non-Regulated Service Charges of \$xxx per month (as at [insert relevant Quarter reference]), exclusive of GST, will commence on and from the Charges Commencement Date and the monthly Charge will be escalated in accordance with item 1.4 of this Schedule 5 (“Charges and other amounts”).

1.4 Escalation formula for Negotiated Service Charges and Non-Regulated Service Charges

The Negotiated Service Charges and Non-Regulated Service Charges will be adjusted for changes in the CPI with effect on and from the first day of each Quarter in accordance with the formula.

$$A_n = A_{n-1} \times \left[\frac{CPI_n}{CPI_{n-1}} \right] \text{ where:}$$

A_n = the applicable adjusted monthly Charge;

A_{n-1} = the applicable monthly Charge immediately before the adjustment is made;

CPI_n = the CPI published for the Quarter ending immediately before the Quarter preceding the Quarter of the relevant adjustment date (or most recently before the adjustment date, where the adjustment date occurs during a Quarter); and

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CPI_{n-1} = the CPI published for the Quarter commencing [insert relevant Quarter reference].

1.5 Prescribed Service Charges

- (a) Initial Monthly Prescribed Service Charge

Powerlink will advise the Customer of the Prescribed Service Charge applying from time to time, determined in accordance with the Electricity Laws.

- (b) Future Monthly Prescribed Service Charge

Powerlink will advise the Customer of the Prescribed Service Charge applying from time to time, determined in accordance with the Electricity Laws.

1.6 Information to be provided by Customer

[Customer to choose whether they wish to have a Contract Agreed Maximum Demand or a Nominated Demand regime – Powerlink to talk through]

The Customer agrees to provide the following information to Powerlink under clause 14.5 (“Customer information”):

The Customer agrees to provide to Powerlink:

- (a) for the Prescribed Service Charges, by 15 December each year:
- (i) the estimated energy consumption (GWh) for the next financial year (“Forecast Energy”); and
 - (ii) the Contract Agreed Maximum Demand for the next financial year; and
- (b) any other information required by the Rules or reasonably requested in writing by Powerlink from time to time, to enable Powerlink to work out the Charges, or any change to the Charges, during the Term.

1.7 Additional Payment for Exceeding the Contract Agreed Maximum Demand

Powerlink will determine the actual maximum demand from the metering data each month at the Transmission Network Connection Point. If the actual maximum demand exceeds the Contract Agreed Maximum Demand in any month (“Relevant Month”):

- (a) unless Powerlink agrees otherwise, the Customer must also pay to Powerlink the capacity price (\$/kW/month) for the locational *Prescribed TUOS Services*, non-locational *Prescribed TUOS Services* and *Prescribed Common Transmission Services* multiplied by 1000 multiplied by Excess Demand (MW) multiplied by 12 for the Relevant Month; and
- (b) the actual maximum demand measured for the Relevant Month will become the new Contract Agreed Maximum Demand for the purpose of recalculating the new monthly Charges for the entire financial year in which the Relevant Month occurred. The adjusted Charges will be applied for future billings within the applicable financial year. For the previous months in the relevant financial year the difference between the old and the new Charges shall be invoiced as a once off lump sum.

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1.8 Other Charges

The Customer agrees to pay any other charges determined in accordance with the Electricity Laws (as amended from time to time) to be payable by the Customer in accordance with the network pricing provisions of the Electricity Laws to the extent not otherwise provided for in this agreement.

2. Termination costs – clause 23 ("Termination Costs")

2.1 Amount of Termination Costs

Where clause 23 ("Termination costs") applies, the Termination Costs payable by the Customer to Powerlink are the applicable amount set out in the table below:

Termination date	Termination Costs
Between the Start Date and the date that is 10 Business Days after the Load Connection Date.	[\$#]
Between the date that is 11 Business Days after the Load Connection Date and the End Date (inclusive).	Unexpired Cost of the Embedded Investment plus the costs reasonably estimated by Powerlink for it to own and operate the Powerlink Regulated Assets for the period of 24 months from the date of the termination event (plus GST).

2.2 Payment of Termination Costs

The Customer must pay Termination Costs payable to Powerlink within 10 Business Days of notification of the termination event that gave rise to the obligation to pay the Termination Costs, which notification must also include a tax invoice for the Termination Costs.

2.3 Scope of termination costs

The parties agree that Termination Costs are, and are intended to be, a reasonable and good faith pre-estimate of the anticipated or actual loss or damage suffered or incurred by Powerlink because of the relevant termination event, and are not a penalty.

If the Termination Costs are found for any reason to be void, invalid or otherwise unenforceable so as to disentitle Powerlink from recovering those Termination Costs, then Powerlink is entitled to recover from the Customer damages at common law for the loss or damage suffered or incurred by Powerlink because of the relevant termination event. The Customer's liability for any such common law damages will not exceed the amount of Termination Costs that would have been payable under item 2.1 ("Amount of Termination Costs") if those termination costs had been enforceable.

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3. Financial Security Arrangements - clause 17 (“Financial security”)

Security Period (first column)	Security Amount (second column)
Between the Start Date (Security Start Date) and the date that is 10 Business Days after the Load Connection Date (Security End Date) (inclusive) – <u>Initial Financial Security to be given on or before the Start Date (Security Provision Date)</u> .	\$ xxx
Between the date that is 11 Business Days after the Load Connection Date (Security Start Date) and the date that is three months after the End Date (Security End Date) (inclusive) – <u>Financial Security to be given on or before 4pm on the date that is 10 Business Days after the Load Connection Date (Security Provision Date)</u> .	\$ xxx

4. Maximum Unpaid Amount

For the definition of Customer Financial Breach in Schedule 8 (“Dictionary”) the Maximum Unpaid Amount is two months Charges as defined in clause 14 (“Charges”).

5. Liability caps

For the purposes of clause 25.4 (“Limitation of Liability for Direct Loss”), the Aggregate Cap is \$xxx million.

6. Required Insurance Amount

For the definition of Required Insurance Amount in Schedule 8 (“Dictionary”), the Required Insurance Amount is [xxx million]

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Schedule 6 – Communication contacts

1. Operational communications (clause 31.1)

The parties nominate the following personnel to be responsible for operational communications between them about the items set out below:

Responsibility	Powerlink	Customer
Day to day operations affecting the connection point	[insert]	xxx
Outage Plans	[insert]	xxx
Outage requests	[insert]	xxx
Emergency events and switching	[insert]	xxx
Media or information releases to third parties	[insert]	xxx
General queries	[insert]	xxx

2. Contacts for Notices (clause 31.1)

	Powerlink	Customer
Address	[insert]	xxx
Telephone	[insert]	xxx
Fax	[insert]	xxx
E-mail	[insert]	xxx
Contact	[insert]	xxx

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Schedule 7 – Operational Arrangements for Land Access

[To be discussed with the Connection Applicant (if applicable)]

Schedule 8 – Dictionary

1. Defined terms and the Rules

- (a) Capitalised terms used in this agreement which are not italicised have the meanings given in item 2 (“Defined terms”) of this Schedule 7 (“Dictionary”).
- (b) Capitalised terms used in this agreement which are *italicised* have the meanings given in the Rules.
- (c) If there is any inconsistency between a term defined in item 2 (“Defined terms”) of this Schedule 7 (“Dictionary”), or a term which is also defined in the Rules, the following order of precedency will apply to resolve the inconsistency:
 - (i) item 2 (“Defined terms”) of this Schedule 7 (“Dictionary”);
 - (ii) the Rules.

2. Defined terms

In this agreement, unless the context clearly indicates otherwise, the following terms have the following meanings.

Access Policy has the meaning given in the Works Coordination Agreement.

AEMC means the Australian Energy Market Commission established under section 5 of the *Australian Energy Market Commission Establishment Act 2004 (SA)*.

AEMO means the Australian Energy Market Operator.

AER means the Australian Energy Regulator established under section 44AE of the Competition and Consumer Act 2010 (Cth).

Affected Party has the meaning given in clause 25.1 (“Liability excluded”) or clause 29.1 (“Suspension of obligations”), as the context requires.

Aggregate Cap means the amount set out in item 5 (“Liability caps”) of Schedule 5 (“Charges and other amounts”).

Agreed Power Transfer Capability means the *Power Transfer Capability* at the Transmission Network Connection Point, being that specified in, item 2.1 (“Agreed Power Transfer Capability”) of Schedule 1 (“Connection”) (subject to any Contingency Event and the provisions of clause 2 (“Service reduction”)) as recorded by the *Metering Installation* for the Customer.

Appendix C of the Queensland Electricity Entity Procedures for Safe Access to High Voltage Electrical Apparatus Procedures has the meaning given in the Works Coordination Agreement.

Asset Boundary has the meaning given in the Works Coordination Agreement.

Australian Bank means an “Australian bank” as defined in the Corporations Act 2001 (Cth) which is incorporated in Australia.

Authority means the Crown, a government minister, a government department, a corporation, or other authority constituted for a public purpose, a holder of an office for a

public purpose, a local authority, a court, tribunal, board or any officer or agent of any of these persons (and to avoid doubt, includes the AEMC, the AER and AEMO).

Bank Credit Threshold has the meaning in clause 17.16 (“Meaning of Bank Credit Threshold”).

Billing Period means a calendar month.

Business Day means a day, other than a Saturday, Sunday or public holiday, when banks are open for business in Brisbane, Queensland.

Change Event has the meaning given in the Works Coordination Agreement.

Change in Control has the meaning given in the Works Coordination Agreement.

Charges means the amounts referred to in clause 14 (“Charges”) and Schedule 5 (“Charges and other amounts”).

Charges Commencement Date is the first to occur of the following dates:

- (a) the Load Connection Date; or
- (b) the Load Energisation Date.

Complete has the meaning given in the Works Coordination Agreement.

Configuration Change has the meaning given in the Works Coordination Agreement.

Contingency Event means an event affecting the *Power System* or one or more *Transmission Elements*, and includes, without limitation, any Scheduled Outages, switching or disconnection carried out by either party in accordance with this agreement or the Works Coordination Agreement.

Costs include costs, charges and expenses, including those incurred in connection with advisers, and, for a Cost Variation, includes an amount for Powerlink’s profit and overhead relating to the performance of the Powerlink Works the subject of the Cost Variation.

Cost Variation means any actual increase to the cost of completing the Powerlink Works after the Start Date which is beyond Powerlink’s reasonable control, (including a change to the input costs of the Powerlink Works and all Costs associated with or in connection with increase to the costs, or any delay in completion of the Works to the extent that the delay was not caused or contributed to by Powerlink), or as a result of an Excepted Risk.

CPI means:

- (a) the Quarterly Consumer Price Index: All Groups - Brisbane index number published by the Australian Bureau of Statistics (publication No. 6401.0); or
- (b) if the index referred to in paragraph (a) ceases to be published, or its basis of assessment is changed such that it no longer accurately reflects changes in the prevailing level of prices substantially in the same manner as it did before the change, the nearest equivalent index as agreed between the parties, or if the parties do not agree, the index nominated by the head of the Australian Bureau of Statistics or its nominee (acting as an expert), whose decision is final and binding.

Customer means the person so described in the Details.

Customer Facility has the meaning given in the Works Coordination Agreement, as described in more detail in item 4 of Schedule 1.

Customer Financial Breach means, for the Customer:

- (a) (**financial security**) failure by the Customer to comply with clause 17 (“Financial security”);

- (b) (**Termination costs**) a failure by the Customer to pay Termination Costs as and when required by clause 23 of this agreement;
- (c) (**non-payment of Charges for Transmission Services**) failure by Customer to pay two consecutive invoices issued under clause 15.2 (“Payment”) relating to Charges for the provision of Transmission Services (clause 14 (“Charges”) and Schedule 5 (“Charges and other amounts”));
- (d) (**non-payment of other Charges**) a failure by the Customer to pay any other Charges (including any interest) as and when required by this agreement (clause 14 (“Charges”));
- (e) (**Cost Variation and Lump Sum**) a failure by the Customer to pay an amount under clause 14.10(b)(“Cost Variation and Lump Sum”) as and when required by that clause;
- (f) (**other amounts due**) a failure by the Customer to pay any other amount (including any interest) as and when required by this agreement, where the total of all amounts outstanding exceeds the Maximum Unpaid Amount; or
- (g) (**Financial Breach of Works Coordination Agreement**) a Customer Financial Breach as defined in the Works Coordination Agreement.

Customer Non-Financial Breach means, for the Customer:

- (a) (**insurance**) a breach of clause 18 (“Insurance”);
- (b) (**wilful misconduct/gross negligence**) a breach of any other obligation of the Customer under this agreement (other than a Customer Financial Breach) that arose from the Wilful Misconduct or Gross Negligence of the Customer and that has or could reasonably be expected to have a material adverse effect on:
 - (i) the provision of transmission services by Powerlink to other *Transmission Network Users* connected to the *Transmission Network*, the Negotiated Assets and the DCA;
 - (ii) the security or performance of the *Transmission Network*, the Negotiated Assets or the DCA; or
 - (iii) the quality of electricity supplied from the *Transmission Network*, the Negotiated Assets or the DCA to other *Transmission Network Users*; or
- (c) (**Non-Financial Breach of Works Coordination Agreement**) a Non-Financial Breach as defined in the Works Coordination Agreement on the part of the Customer.

Customer Repeated Breach means, for the Customer:

- (a) five or more breaches of any one or more of the following, within any consecutive 12 month period during the Term, of which Powerlink has provided notice to the Customer of each individual breach (irrespective of whether the Customer remedied the breach) – clause 10 (“Operational procedures”), clause 11 (“Maintenance”), clause 12 (“Access to Customer Facility”) and paragraph (b) (“wilful misconduct/gross negligence”) of the definition of “Customer Non-Financial Breach”);
- (b) a breach of any one or more of the following, where the breach lasts for more than three months without being remedied – clause 10 (“Operational procedures”), clause 11 (“Maintenance”), clause 12 (“Access to Customer Facility”) and paragraph (b) (“wilful misconduct/gross negligence”) of the definition of “Customer Non-Financial Breach”);

- (c) five or more Technical Breaches, within any consecutive 12 month period during the Term, of which Powerlink has provided notice to the Customer of each individual breach (irrespective of whether the Customer remedied the breach); or
- (d) a Technical Breach that lasts for more than three months without being remedied;
- (e) a Customer Repeated Breach as defined in the Works Coordination Agreement.

DCA has the meaning given in the Works Coordination Agreement.

Details means the section of this agreement headed “Details”.

Direct Loss means loss, injury, damage or expense suffered or incurred by the Affected Party that results directly from, whether solely or in part, the First Party’s breach of this agreement (whether negligent or otherwise), but does not include:

- (a) if the Affected Party is the Customer, any loss, damage or expense arising out of interruption to business, increased Costs of working, loss of use of property, loss of contract, loss of production, loss of revenue, loss of profit or loss of goodwill; or
- (b) any indirect or consequential loss, damage, injury or expense,

whether or not it was reasonably foreseeable or reasonably within the parties’ contemplation at the date of this agreement.

Electricity Laws means the Electricity Act 1994 (Qld), the Old National Electricity Law, the New National Electricity Law, the Rules and any other laws and codes that may regulate or govern the generation, transmission, supply or use of electrical energy in Queensland from time to time.

End Date is as set out in the Details.

Excepted Risk has the meaning given in the Works Coordination Agreement.

Financial Security means a financial security of the kind described in clause 17.1 (“Provision of Financial Security”), including the following – the Initial Financial Security, New Financial Security and all other Financial Securities, together with any replacement, substitution, swap or any amendment of any of them.

Financial Year means the 12 month period ending 30 June.

First Party has the meaning given in clause 25.1 (“Liability excluded”).

Force Majeure Event means an event, act, occurrence or omission, or combination of them, (whether occurring before or after the Start Date), that (despite the observance of *Good Electricity Industry Practice*) is beyond the reasonable control of the party affected by it, including:

- (a) **(acts of God, etc)** acts of God, lightning strikes, earthquakes, floods, droughts, storms, mudslides, radioactive or chemical contamination, explosions, fires or other natural disasters, acts of war, acts of public enemies, acts of terrorism, riots, civil commotions, malicious damage, sabotage, blockades and revolutions;
- (b) **(health risks)** any serious risks to health or safety;
- (c) **(disease/illness)** without limiting paragraph (b) above, the occurrence or outbreak of any Infectious Disease or Illness including an epidemic and/or pandemic;
- (d) **(response action)** without limiting paragraph (f) below any international, Commonwealth, State or Territory orders, directions, proclamations, determinations, requirements, exercise of (or the invoking of) any emergency powers, change to a law or the introduction of a new law in relation to or in connection with any of the matters referred to in paragraphs (a), (b) and (c) above;
- (e) **(industrial action)** strikes, lockouts, industrial or labour disputes or difficulties, work bans, blockages or picketing;

- (f) (**administrative action**) action or inaction by, or an order, determination, direction or finding of, a court, government or Authority including an injunction or a denial, refusal or failure to grant any authorisation, licence, approval, permit, registration or acknowledgement;
- (g) (**equipment failure**) mechanical or electrical breakdown of any equipment beyond a party's reasonable control;
- (h) (**unplanned outages**) unplanned outages of a party's equipment beyond a party's reasonable control;
- (i) (**supplier failure**) the failure of any manufacturer, supplier or provider of goods, materials, equipment, plant, machinery or services to an affected party to provide those goods or services to that party, where the failure is due to circumstances beyond the reasonable control of the supplier (including any of the events described in this definition); and
- (j) (**revocations**) the revocation of either party's licence or authorisations by a relevant Authority except as a result of any act, omission or default on that party's part.

Future Monthly Prescribed Service Charge means the Prescribed Service Charge set out in item 1.5(b) ("Prescribed Service Charges") of Schedule 5 ("Charges and other amounts").

Government Agency has the meaning given in the Works Coordination Agreement.

Gross Negligence has the meaning given in the Works Coordination Agreement.

Inconsistent Obligation has the meaning given in clause 26.4 ("Inconsistency").

Infectious Disease or Illness means any serious infectious disease or illness (of any kind, including any derivatives or mutations and howsoever caused, including from zoonotic causes) that is transmitted, transmittable, transferable or contagious in any other way, directly or indirectly, from person to person.

Initial Financial Security means the Financial Security referred to by that name in the table in item 3 of Schedule 5 ("Charges and other amounts").

Initial Monthly Prescribed Service Charge means the Prescribed Service Charge set out in item 1.5(a) ("Prescribed Service Charges") of Schedule 5 ("Charges and other amounts").

Insolvent has the meaning given in the Works Coordination Agreement.

Interaction has the meaning given in the Works Coordination Agreement.

Interest Rate means the rate equal to the current one month Australian Bank Bill Swap Reference Mid-Rate specified by Reuters Monitored Service page BBSY at or about 10.00 am (Sydney time) on the first Business Day of each calendar month.

Ipsa Facto Laws means *Treasury Laws Amendment (2017 Enterprise Incentives No. 2) Act 2017* (Cth).

Load has the meaning given in the Works Coordination Agreement.

Load Energisation has the meaning given in the Works Coordination Agreement.

Load Energisation Date has the meaning given in the Works Coordination Agreement.

Load Connection Date has the meaning given in the Works Coordination Agreement

Maximum Demand means the highest amount of electrical power transferred or forecast to be transferred at the Transmission Network Connection Point, over any half hour period (this amount can never exceed the Agreed Power Transfer Capability of the Transmission Network Connection Point).

Maximum Unpaid Amount is as set out in item 4 (“Maximum Unpaid Amount”) of Schedule 5 (“Charges and other amounts”).

NAPA Rights has the meaning given in the Works Coordination Agreement.

Negotiated Assets has the meaning given in the Works Coordination Agreement.

Negotiated Service Charges has the meaning given in clause 14.2(a) (“How charges are worked out”).

Network Operating Agreement has the meaning given in the Works Coordination Agreement. **New Financial Security** means new or substitute Financial Security as required by clause 17.12 (“Change in circumstances of Customer”), clause 17.13 (“Change in circumstances of bank providing Financial Security”) or clause 17.14 (“Customer may request swap of Financial Security”).

New National Electricity Law means the National Electricity Law referred to in section 12 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005* (SA) as given effect in Queensland.

Non-Financial Obligation means any obligation in this agreement other than one requiring a person to pay money or provide security.

Non Regulated Service Charge has the meaning given in clause 14.2(b) (“How charges are worked out”).

Old National Electricity Law means the National Electricity (Queensland) Law as defined in the *Electricity - National Scheme (Queensland) Act 1997* immediately before the commencement of the New National Electricity Law in Queensland.

Owner has the meaning given in the Works Coordination Agreement.

Owner Assets has the meaning given in the Works Coordination Agreement.

Owner Financial Breach:

- (a) in respect of the Works Coordination Agreement, has the meaning given in that agreement; and
- (b) in respect of the Network Operating Agreement, means a breach on the part of the Owner of its obligation to pay charges or other amounts to Powerlink under the Network Operating Agreement but only if Powerlink does not hold sufficient financial security from the Owner in respect of the amount of such charges and other amounts.

Owner Negotiated Assets has the meaning given in the Works Coordination Agreement.

Payment of Charges means the obligation of a party to pay any amount to the other party as required under this agreement, including the obligation to pay Charges and Termination Costs.

Powerlink means the person so described in the Details.

Powerlink Assets has the meaning given in the Works Coordination Agreement.

[Powerlink Minimum Land Access Requirements has the meaning in Schedule 7 (“Operational Arrangements for Land Access”).]

Powerlink Regulated Assets has the meaning given in the Works Coordination Agreement.

Powerlink Works has the meaning given in the Works Coordination Agreement.

Prescribed Service Charges has the meaning given in clause 14.2(c) (“How charges are worked out”).

Progress Schedule has the meaning given in the Works Coordination Agreement.

Project Document has the meaning given in the Works Coordination Agreement.

Quarter means a period of three consecutive months commencing on 1 January, 1 April, 1 July or 1 October in any year.

Regulatory Change has the meaning given in clause 14.10 (“Review of Negotiated Service Charges”).

Relevant Exclusion has the meaning given in clause 25.8 (“Exclusions under *National Electricity Law*”).

Relevant Limitation has the meaning given in clause 25.9 (“Limitations under *National Electricity Law*”).

Required Insurance Amount is as set out in item 6 (“Required Insurance Amount”) of Schedule 5 (“Charges and other amounts”).

Rules means the rules called the National Electricity Rules made under the New National Electricity Law.

Scheduled Outage has the meaning given in the Works Coordination Agreement.

Second Practical Completion Date has the meaning given in the Works Coordination Agreement.

Security Amount, for a Financial Security, is the amount set out in the second column of the table in item 3 (“Financial Security Arrangements”) of Schedule 5 (“Charges and other amounts”) for the applicable Security Period.

Security End Date, for a Security Period, is the Security End Date referred to in the first column of the table in item 3 (“Financial Security Arrangements”) of Schedule 5 (“Charges and other amounts”), applicable to the relevant Security Period.

Security Period, for a Financial Security in a Security Period, is the period starting on and from the applicable Security Start Date and ending on and including the applicable Security End Date during which period the relevant Financial Security must be held by Powerlink.

Security Provision Date, for a Financial Security in a Security Period, is the Security Provision Date referred to in the first column of the table in item 3 (“Financial Security Arrangements”) of Schedule 5 (“Charges and other amounts”) applicable to the relevant Financial Security, being the date by which the relevant Financial Security must be provided to Powerlink.

Security Start Date, for a Financial Security in a Security Period, is the Security Start Date referred to in the first column of the table in item 3 (“Financial Security Arrangements”) of Schedule 5 (“Charges and other amounts”), applicable to the relevant Security Period.

Standard and Poor’s and S&P means Standard and Poor’s (a division of McGraw-Hill Inc) or Standard & Poor’s (Australia) Pty Ltd or the successor of either of them.

Start Date is as set out in the Details.

Target Load Connection Date has the meaning given in the Works Coordination Agreement.

Taxes has the meaning given in the Works Coordination Agreement.

Technical Breach has the meaning given in the Works Coordination Agreement.

Term has the meaning given in clause 21.1 (“Term of agreement”).

Termination Costs means the applicable amount set out in item 2.1 of Schedule 5 (“Charges and other amounts”).

Third Party Claim has the meaning given in the Works Coordination Agreement.

Transmission Network Connection Point (or **TNCP**) has the meaning given in Schedule 1 ("Connection").

Transmission Service means *Power Transfer Capability* at the Transmission Network Connection Point up to the Agreed Power Transfer Capability.

Unexpired Cost of the Embedded Investment ("UCEI") means the amount worked out using the following formula:

$$\text{UCEI} = \sum_{n=t}^{n=xxx} \frac{\text{FFC}_n \times 0.85}{(1 + R)^{(n-t)}}$$

where:

“UCEI” is the Unexpired Cost of Embedded Investment in month “t”

“FFC” is the monthly unpaid future Negotiated Service Charge and Non-Regulated Service Charge escalated to month “t” in accordance with the escalation formula set out in item 1.4 of Schedule 5 (“Charges and other amounts”).

“n” is the series of contract months from month "t" to month [xxx].

“t” is the contract month (from the Start Date) in which the contract is terminated.

R is the average 11am official money market call rate in the month of termination less the average annual CPI (All groups Brisbane) for the preceding five years (to establish the real interest rate), divided by 12, however, if this calculation returns a negative number then R is taken to be zero.

WHS Laws has the meaning given in the Works Coordination Agreement.

Wilful Misconduct has the meaning given in the Works Coordination Agreement.

Works has the meaning given in the Works Coordination Agreement.

Works Approval has the meaning given in the Works Coordination Agreement.

Works Coordination Agreement means the agreement of that name between Powerlink, the Customer and the Owner dated on or about the date of this agreement.

3. Rules of interpretation

In this agreement:

- (a) **(reference to documents)** a reference to this agreement or another instrument includes any variation or replacement of any of them;
- (b) **(reference to party)** a reference to a party (including any reference to “Powerlink” or “the Customer”) includes (where relevant) the party’s officers, employees, agents and contractors;
- (c) **(reference to laws)** a reference to a statute, ordinance, code, law or Powerlink document includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(singular and plural)** the singular includes the plural and vice versa;
- (e) **(persons)** the word “person” includes a firm, a body corporate, a partnership, a joint venture, an unincorporated body or association, or any Government Agency;

- (f) **(successors and assigns)** a reference to a person (including a party) includes a reference to the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) **(reckoning of days)** if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (h) **(day)** a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) **(non business days)** if a payment under this agreement must be made on a stipulated day that is not a Business Day, then the stipulated day will be taken to be the next Business Day;
- (j) **(whole and parts)** a reference to any thing (including any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually;
- (k) **(includes)** the verb “include” (in all its parts, tenses and variants) is not used as, nor is it to be interpreted as, a word of limitation; and
- (l) **(including)** the words “including”, “for example” or “such as” do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

4. Headings

Headings are inserted for convenience and do not affect the interpretation of this agreement.

Signing page

DATED (Powerlink): _____

**THE OFFICIAL SEAL of QUEENSLAND
ELECTRICITY TRANSMISSION
CORPORATION LIMITED**
(ACN 078 849 233) trading as **Powerlink
Queensland** was affixed in accordance with
its constitution in the presence of:

Signature of Chief Executive or authorised
person

CHIEF EXECUTIVE

Office held

Name of Chief Executive or authorised person
(block letters)

Signature of Secretary or authorised person

SECRETARY

Office held

Name of Secretary or authorised person (block
letters)

DATED (Customer): _____

Executed by [Insert Customer Name]
(ABN **XX XXX XXX XXX**) in accordance
with Section 127 of the *Corporations Act
2001*

Signature of Director

Name of Director (block letters)

Signature of Director

Name of Director (block letters)