

## Retail Licence

### Electricity Industry Act 2004 (WA)

#### Retail Licence

The Economic Regulation Authority (Authority), established under the *Economic Regulation Authority Act 2003* hereby grants a retail licence to <<Name>> (Licensee) subject to, and in accordance with, the terms set out in this licence.

Dated this <<Date>> day <<Month>> 20xx.

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Signed by a delegate;  
member; or  
the Chairman of the Economic Regulation Authority.

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# **Retail Licence**

*Electricity Industry Act 2004 (WA)*

**LICENCE ERL<<Number>>**

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***Applicant's Full Name***  
***(Licensee)***

**<<ABN\_ACN >>**

**<<ADDRESS>>**

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# Retail Licence

## 1 Definitions

**Act** means the *Electricity Industry Act 2004 (WA)*.

**applicable legislation** includes:

- (a) the *Act*;
- (b) the *Regulations*; and
- (c) the *Codes*.

**approved scheme** means a scheme approved under section 92 of the *Act*.

**Authority** means the Economic Regulation Authority.

**business day** means a day which is not a Saturday, Sunday or a Public Holiday in Western Australia.

**Code** means:

- (a) the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*;
- (b) the *Electricity Industry Customer Transfer Code 2004*;
- (c) the *Electricity Networks Access Code 2004*;
- (d) the *Electricity Industry Metering Code 2005*;
- (e) the *Reliability and Quality of Supply Code 2005*; or
- (f) a code prepared by the *Authority* or the Minister pursuant to section 39 of the *Act*.

**commencement date** means the date specified in Schedule 1.

**customer** means a person to whom *electricity* is sold for the purpose of consumption.

**customer service charter** means the charter prepared by a retailer pursuant to Part 11 of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*.

**electricity** includes electrical energy of any kind, however produced, stored, transported or consumed.

**electricity licensing email address** means:

- (a) in relation to the *Authority*, the addressee's authorised *Authority* email address or other such email address as notified in writing to the *licensee*; and
- (b) in relation to the *licensee*, the email address specified in the licence application or other such email address as notified in writing to the *Authority*.

**electricity marketing agent** has the meaning in the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*.

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**expiry date** means the date specified in Schedule 1.

**individual performance standards** mean any standards prescribed by the Authority for an individual licensee pursuant to clause 21 of the licence.

**licence** means:

- (a) this licence;
- (b) Schedule 1; and
- (c) any *individual performance standards* approved by the Authority pursuant to clause 21.

**licence area** is the area stated in Schedule 1 of this licence.

**licensee** means the <<Name of licensee>>.

**non-standard contract** has the meaning in section 54(3) of the Act.

**notice** means a written notice, agreement, consent, direction, representation, advice, statement or other communication required or given pursuant to, or in connection with, this licence.

**performance audit** means an audit of the effectiveness of measures taken by the licensee to meet the *performance criteria* in this licence.

**performance criteria** means:

- (a) the terms and conditions of the licence; and
- (b) any other relevant matter in connection with the *applicable legislation* that the Authority determines should form part of the *performance audit*.

**publish** in relation to a report or information means either:

- (a) posting the report or information on the licensee's website; or
- (b) sending the report or information to the Authority to be published on the Authority's website.

**Regulations** means:

- (a) *Electricity Industry (Code of Conduct) Regulations 2005*;
- (b) *Electricity Industry (Licence Conditions) Regulations 2005*;
- (c) *Electricity Industry (Licensing Fees) Regulations 2005*;
- (d) *Electricity Industry (Obligation to Connect) Regulations 2005*;
- (e) *Electricity Industry (Ombudsman) Regulations 2005*; and
- (f) any regulations in force from time to time made pursuant to the Act.

**related body corporate** has the meaning in section 50 of the *Corporations Act 2001 (Cwlth)*.

**review guidelines** means the guidelines for the review of customer service charters published on the Authority's website.

**reviewable decision** means a decision by the Authority pursuant to:

- (a) clause 13.2, 13.3;
- (b) clause 21.2;

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- (c) clause 22.2; or
- (d) clause 25.1,

of this *licence*.

**small use customer** means a customer who consumes not more than 160MWh of electricity per annum.

**South West Interconnected System** means the interconnected transmission and distribution systems, generating works and associated works:

- (a) located in the South West of the State and extending generally between Kalbarri, Albany and Kalgoorlie; and
- (b) into which *electricity* is supplied by:
  - (i) one or more of the electricity generation plants at Kwinana, Muja, Collie and Pinjar; or
  - (ii) any prescribed electricity generation plant.

**standard form contract** means a standard form contract submitted by the *licensee* in accordance with section 49 or section 50 of the *Act* and approved by the *Authority* pursuant to section 51 of the *Act*.

**supplier of last resort** has the meaning in Part 5 of the *Act*.

**supply** means to sell *electricity*.

## 2 Grant of Licence

- 2.1 The *licensee* is granted a *licence* for the *licence area* to *supply electricity* to *customers* in accordance with the terms and conditions of this *licence*.

## 3 Term

- 3.1 This *licence* commences on the *commencement date* and continues until the earlier of:
- (a) the cancellation of the *licence* pursuant to clause 8 of this *licence*;
  - (b) the surrender of the *licence* pursuant to clause 9 of this *licence*; or
  - (c) the *expiry date*.

## 4 Fees

- 4.1 The *licensee* must pay the applicable fees in accordance with the *Regulations*.

## 5 Compliance

- 5.1 Subject to any modifications or exemptions granted pursuant to the *Act*, the *licensee* must comply with any *applicable legislation* including, but not limited to, the *Electricity Industry Customer Transfer Code 2004*, the *Reliability and Quality of Supply Code 2005*, the *Electricity Industry Metering Code 2005* and the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*.

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- 5.2 Subject to the provisions of any *applicable legislation*, the *Authority* may direct the *licensee* in writing to do any measure necessary to:
- (a) correct the breach of any *applicable legislation*; or
  - (b) prevent the breach of any *applicable legislation* occurring again,
- and specify a time limit by which such action must be taken.

## 6 Marketers

- 6.1 The *licensee* must ensure that an electricity marketing agent of the *licensee* complies with the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004*.
- 6.2 The *licensee* must report a breach by the electricity marketing agent of the applicable conditions of the *Code of Conduct for the Supply of Electricity to Small Use Customers 2004* to the *Authority* within 3 *business days* of becoming aware of the breach.

## 7 Transfer of Licence

- 7.1 This *licence* may be transferred only in accordance with the *Act*.

## 8 Cancellation of Licence

- 8.1 This *licence* may be cancelled only in accordance with the *Act*.

## 9 Surrender of Licence

- 9.1 The *licensee* may surrender the *licence* at any time by written *notice* to the *Authority*.
- 9.2 The surrender of the *licence* will take effect on the day that the *Authority* publishes a *notice* of the surrender in the *Gazette*.
- 9.3 The *licensee* will not be entitled to a refund of any fees by the *Authority*.

## 10 Renewal of Licence

- 10.1 This *licence* may be renewed only in accordance with the *Act*.

## 11 Amendment of Licence on Application of the Licensee

- 11.1 The *licensee* may apply to the *Authority* to amend the *licence* in accordance with the *Act*.

## 12 Amendment of the Licence by the Authority

- 12.1 Subject to any *applicable legislation*, the *Authority* may amend the *licence* at any time in accordance with this clause.

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- 12.2 Before amending the *licence* under clause 12.1, the *Authority* must:
- (a) provide the *licensee* with written *notice* of the proposed amendments under consideration by the *Authority*;
  - (b) allow 15 *business days* for the *licensee* to make submissions on the proposed amendments; and
  - (c) take into consideration those submissions.
- 12.3 This clause also applies to the substitution of the existing *licence*.
- 12.4 For avoidance of doubt, the *licensee* will not have to pay an associated application fee or licence fee for the purpose of clause 12.1.

### 13 Customer Contracts

- 13.1 Subject to the *Regulations*, the *licensee* must not supply *electricity* to a *small use customer* otherwise than under:
- (a) a *standard form contract*, or
  - (b) a *non-standard contract*.
- 13.2 The *licensee* must, if directed by the *Authority*, review the *standard form contract* and submit to the *Authority* the results of that review within the time specified by the *Authority*.
- 13.3 The *licensee* must comply with any direction given by the *Authority* in relation to the scope, process or methodology of the review referred to in clause 13.2.

### 14 Amending the Standard Form Contract

- 14.1 The *licensee* may only amend the *standard form contract* with the *Authority's* approval.
- 14.2 The *licensee* may amend the *standard form contract* at any time by submitting to the *Authority*:
- (a) a proposed amendment to the *standard form contract*, or
  - (b) a proposed substituted *standard form contract*.
- 14.3 The *Authority* may:
- (a) approve the amendment to the *standard form contract* or substituted *standard form contract*, or
  - (b) specify the amendments the *licensee* must make to the amended or substituted *standard form contract* before the *Authority* will amend the *standard form contract*,
- and notify the *licensee* of its decision within a reasonable time.
- 14.4 The *Authority* may, at any time, by *notice* in writing, direct the *licensee* to amend the *standard form contract* by specifying:
- (a) the amendments to be made to the *standard form contract*; and
  - (b) the latest date at which the amendments will come into force.

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## 15 Customer Service Charter

- 15.1 The *licensee* must prepare a *customer service charter* if it supplies *electricity* to *small use customers*.
- 15.2 The *licensee* must, unless otherwise notified in writing by the *Authority*, review the *customer service charter* at least once every 36 months from the grant of the licence and submit to the *Authority* the results of that review within 5 *business days* after it is completed.
- 15.3 The *licensee* may, at any time, review the *customer service charter* and submit to the *Authority* the results of that review within 5 *business days* after it is completed.
- 15.4 Any review of the *customer service charter* must have regard to the *review guidelines*.
- 15.5 When the *licensee* has reviewed the *customer service charter* pursuant to clauses 15.2 or 15.3 of this *licence*, the *Authority* will examine:
- (a) the review pursuant to clauses 15.2 or 15.3 of this *licence*; and
  - (b) the *customer service charter*,
- and publish the review and the *Authority's* assessment of the review on the *Authority's* website within a reasonable time of receiving the review.

## 16 Amending the Customer Service Charter

- 16.1 The *licensee* may amend the *customer service charter* at any time by submitting to the *Authority*:
- (a) an amendment to the *customer service charter*, or
  - (b) a substituted *customer service charter*.
- 16.2 The *Authority* may examine the amendment and publish the *Authority's* assessment of the amendment on the *Authority's* website within a reasonable time of receiving the amendment.

## 17 Supplier of Last Resort

- 17.1 If the *licensee* is designated a *supplier of last resort* under the *Act*, the *licensee* must perform the functions of the *supplier of last resort*.

## 18 Directions by the Authority

- 18.1 The *licensee* must comply with any direction given by the *Authority* pursuant to section 53 of the *Act*.

## 19 Approved Scheme

- 19.1 The *licensee* must not supply *electricity* to *small use customers* unless the *licensee* is:
- (a) a member of an *approved scheme*; and

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- (b) bound by, and compliant with, any decision or direction of the electricity ombudsman under the *approved scheme*.

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## 20 Accounting Records

20.1 The *licensee* and any *related body corporate* must maintain accounting records that comply with the Australian Accounting Standards Board Standards or equivalent International Accounting Standards.

## 21 Individual Performance Standards

21.1 Performance standards are contained in *applicable legislation*.

21.2 The *Authority* may prescribe *individual performance standards* in relation to the *licensee* of its obligations under this *licence* or the *applicable legislation*.

21.3 Before approving any *individual performance standards* under this clause, the *Authority* will:

- (a) provide the *licensee* with a copy of the proposed *individual performance standards*;
- (b) allow 15 *business days* for the *licensee* to make submissions on the proposed *individual performance standards*; and
- (c) take into consideration those submissions.

21.4 Once approved by the *Authority*, the *performance standards* are included as additional terms and conditions to this *licence*.

## 22 Performance Audit

22.1 The *licensee* must, unless otherwise notified in writing by the *Authority*, provide the *Authority* with a *performance audit* within 24 months after the *commencement date*, and every 24 months thereafter.

22.2 The *licensee* must comply, and must require the *licensee's* auditor to comply, with the *Authority's* standard audit guidelines dealing with the *performance audit*, including any minimum requirements relating to the appointment of the auditor, the scope of the audit, the conduct of the audit and the reporting of the results of the audit.

22.3 The *licensee* may seek a review of any of the requirements of the *Authority's* standard audit guidelines in accordance with clause 27.1.

22.4 The independent auditor may be nominated by the *licensee* but must be approved by the *Authority* prior to the audit pursuant to clause 22.1. Should the *Authority* reject the *licensee's* nomination of an independent auditor twice, or in the event that no nomination has been made by the *licensee* within 1 month of the date the audit was due, the *Authority* may choose an independent auditor who will conduct the audit.

## 23 Reporting

23.1 The *licensee* must report to the *Authority*.

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- (a) if the *licensee* is under external administration as defined by the *Corporations Act 2001 (Cwlth)* within 2 *business days*; or
- (b) if the *licensee* experiences a significant change in the *licensee's* corporate, financial or technical circumstances upon which this *licence* was granted which may affect the *licensee's* ability to meet its obligations under this *licence* within 10 *business days* of the change occurring.

## 24 Provision of Information

- 24.1 The *licensee* must provide to the *Authority* any information that the *Authority* may require in connection with its functions under the *Act* in the time, manner and form specified by the *Authority*.

## 25 Publishing Information

- 25.1 The *Authority* may direct the *licensee* to *publish* any information within a specified timeframe it considers relevant in connection with the *licensee* or the performance by the *licensee* of its obligations under this *licence*.
- 25.2 Subject to clause 25.3, the *licensee* must *publish* the information referred to in clause 25.1.
- 25.3 If the *licensee* considers that the information is confidential it must:
- (a) immediately notify the *Authority*; and
  - (b) seek a review of the *Authority's* decision in accordance with clause 27.1.
- 25.4 Once it has reviewed the decision, the *Authority* will direct the *licensee* in accordance with the review to:
- (a) *publish* the information;
  - (b) *publish* the information with the confidential information removed or modified; or
  - (c) not *publish* the information.

## 26 Notices

- 26.1 Unless otherwise specified, all *notices* must be in writing.
- 26.2 A *notice* will be regarded as having been sent and received:
- (a) when delivered in person to the addressee; or
  - (b) 3 *business days* after the date of posting if the *notice* is posted in Western Australia; or
  - (c) 5 *business days* after the date of posting if the *notice* is posted outside Western Australia; or
  - (d) if sent by facsimile when, according to the sender's transmission report, the *notice* has been successfully received by the addressee; or

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- (e) if sent by email when, according to the sender's electronic record, the *notice* has been successfully sent to the addressee's *electricity licensing email address*.

## 27 Review of the Authority's Decisions

- 27.1 The *licensee* may seek a review of a *reviewable decision* by the *Authority* pursuant to this *licence* in accordance with the following procedure:
- (a) the *licensee* shall make a submission on the subject of the *reviewable decision* within 10 *business days* (or other period as approved by the *Authority*) of the decision; and
  - (b) the *Authority* will consider the submission and provide the *licensee* with a written response within 20 *business days*.
- 27.2 For the avoidance of doubt, this clause does not apply to a decision of the *Authority* pursuant to the *Act*, nor does it restrict the *licensee's* right to have a decision of the *Authority* reviewed in accordance with the *Act*.

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## Schedule 1 – Licensee Details

- 1 Name and Address of Licensee
- 2 Operating (Licence) Area
- 3 Commencement Date
- 4 Expiry Date

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**Amendment Record Sheet:**

<b>Amendment Date</b>	<b>Description of amendment</b>

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