

## AEMO PSCAD SERVICE PROOF OF CONCEPT AGREEMENT- NOTES

### Important Things to Note:

This Agreement is structured so that most of the variables appear on the first page. The terms and conditions appear next, followed by three different Schedules and an Attachment.

The variables can be inserted quite simply by following the codes in the table below. The code system we have used ensures that all variables are completed. What you need to do is use the "Find and Replace" function in Microsoft Word and type the coded variable as you see it in the Table in the "Find" section and then type the text to replace it with in the "Replace" section. If a variable is not to be used in your Agreement, insert: "Intentionally left blank" (without the quotation marks).

Schedules will need to be reviewed individually and amended manually.

If you are uncertain about anything to do with this document, please consult with the Legal Department.

VARIABLE	REQUIRED INFORMATION
#1#	Insert the full name of the Customer, including the Pty Ltd.
#2#	Insert the Customer's ABN.
#3#	Insert the Customer's address. You should use the following format, using AEMO's Melbourne office as an example: Level 22, 530 Collins Street, MELBOURNE VIC 3000.
#4#	Insert the name of the Customer Contact, i.e. the person who will administer the Agreement from the Customer's perspective and with whom AEMO will be communicating officially about the Agreement.
#5#	Insert the name of the AEMO Contact, i.e. AEMO's representative who will be administering the Agreement. This person should be familiar with the responsibilities this entails. As a reminder, this person must ensure that: <ul style="list-style-type: none"><li>• the Agreement is properly executed and the original is lodged with the Contracts Administrator along with the Contract Index Form so that it can be included in the Contracts Database</li><li>• invoices are approved and processed in accordance with AEMO's policies and procedures</li><li>• any variations or extensions are managed and documented appropriately; if in doubt as to how, seek advice from the Legal Department</li><li>• issuing formal notices under the Agreement; if in doubt as to how, seek advice from the Legal Division</li><li>• they have a good understanding of the Agreement and how it works, and when in doubt, seek advice from the Legal Division</li></ul>
#6#	Insert the Commencement Date. Use the following format: 1 December 2019
#7#	Insert the number of Authorised Users AEMO approves to potentially use the Service

VARIABLE	REQUIRED INFORMATION
#8#	Insert the Customer's address for service of notices under the Agreement. Use the same format as for AEMO's address.
#9#	Insert the Customer's fax number for service of notices under the Agreement. Use the same format as for AEMO's fax number.
#10#	Insert the Customer's email address for service of notices under the Agreement.
#11#	Insert the name of the Customer's Contact who should give and receive notices under the Agreement. Use the same format as for AEMO's addressee.
#12#	Insert the name of the person from the Customer who will be signing this Agreement.
#13#	Insert the name of the person from AEMO who will be signing this Agreement.

**Number of Copies**

You will need two originals for execution, so that each party has one fully executed copy.

**ONCE YOU HAVE COMPLETED THE TASKS DETAILED ON THESE TWO PAGES, PLEASE DELETE THESE TWO PAGES, LEAVING THE AGREEMENT INTACT. YOU SHOULD THEN ENSURE THAT THE PAGE NUMBERS ARE STILL CORRECT.**



# CONNECTIONS SIMULATION TOOL ACCESS AGREEMENT

**Australian Energy Market Operator Ltd**

and

**#1#**

Australian Energy Market Operator Ltd  
Level 22, 530 Collins Street  
MELBOURNE VIC 3000  
TEL: 03 9609 8777  
FAX: 03 9609 8080

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## DETAILS

**Parties:**

**Australian Energy Market Operator Limited** (ABN 94 072 010 327) of Level 22, 530 Collins Street, MELBOURNE VIC 3000 ("AEMO")

and

**#1#**

ABN ( #2# )

of #3# ("Customer")

**Customer Contact:**

#4#

**AEMO Contact:**

Connections Simulation Tool Manager

**Commencement Date:**

The date the last party signs this Agreement

**Initial Term:**

24 months commencing on the Commencement Date

**Extended Term**

The Agreement will automatically renew for successive Further Periods up to the date that is 60 months after the Commencement Date, unless a party notifies the other party in writing (at least 60 days before the end of the Initial Term or the then applicable Further Period (as applicable) that it does not want the Agreement to automatically renew.

**Address for Service of Notices:**

**To AEMO:**

Attention: Group Manager, Onboarding and Connections  
Address: Level 22, 530 Collins Street, MELBOURNE VIC 3000  
Facsimile: 03 9609 8080  
Email: reception@aemo.com.au

**cc:**

Attention: Group Manager, Legal  
Address: Level 22, 530 Collins Street, MELBOURNE VIC 3000  
Facsimile: 03 9609 8080  
Email: reception@aemo.com.au

**To the Customer:**

Address: #8#

Facsimile: #9#

Email: #10#

Attention: #11#

# Operative Provisions

## 1 Interpretation

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### Definitions

1.1 Unless a contrary intention appears, the following words have the following meaning in this Master Services Agreement.

**Agreement** means this master Connections Simulation Tool Access Agreement between AEMO and Customer (including the Operative Provisions and any schedules, attachments or annexures), and in the context where incorporated in a Case Agreement, a reference to the Agreement means the Case Agreement.

**Application Fee** means a one-off fixed fee for use of the Service for each new Case created under a Case Agreement.

**Authorised Users** means the Customer's individual employees, consultants and contractors AEMO permits to potentially access and/or use the Service (as set out in a Case Consent Form).

**AEMO Data** means data of AEMO, data related to an AEMO Market, data provided to AEMO by participants in a AEMO Market (including Registered Participants, metering providers, metering data providers and metering coordinators (as those terms are defined in the National Electricity Rules)), protected information (as defined in the National Electricity Law), AEMO's wide-area four state PSCAD model, and any other data provided to AEMO by third parties.

**AEMO Market** means any market operated or administered by AEMO (including any related power system or transmission system) and any information service provided by AEMO under arrangements contemplated by or under Energy Legislation.

**Case** means a configured environment established within AEMO's Connections Simulation Tool, based on the information provided in the Case Consent Form, that enables Customer to perform System Strength Impact Assessment using Customer Uploaded Data.

**Case Agreement** means a separate and binding contract between the parties created under, and incorporating the terms of this Agreement, as further described in **clauses 3.4 and 3.5** and **clause 1.1** of the Case Consent Form.

**Case Consent Form** means a form substantially in the form set out in Attachment 1 (Case Consent Form) that must be completed by the Customer and submitted to AEMO along with any required supporting Customer Uploaded Data (as set out in AEMO's Create Case Interface) each time Customer requests a Case to be created.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**Communication** means a notice, approval, consent, agreement, or other communication required by this Agreement.

**Connections Simulation Tool** means AEMO's online service that allows Customers to run System Strength Impact Assessments for a Case against a wide-area four state PSCAD model and AEMO Data,

**Concurrent Authorised Users** means the maximum number of Authorised Users AEMO permits to access and/or use the Service at any one time (as set out in the **Case Agreement**).

**Concurrent Instances** means the maximum number of Instances that may be accessed or used by an Authorised User at any one time (as set out in the **Case Agreement**).

**Confidential Information** has the meaning set out in the National Electricity Rules.

**Consequential Loss** means the following Losses: loss of profits; loss of revenue; loss of goodwill; loss of opportunity; loss of production; loss of anticipated savings; loss of business reputation; loss of access

to AEMO Markets; or any form of indirect or consequential loss which was reasonably in the contemplation of both parties at the Commencement Date as the probable result of a breach of this Agreement.

**Contact** means the Customer Contact or the AEMO Contact as set out in the **Details**.

**Create Case Interface** means the online application form for Customer to provide details about the Plant and to upload the applicable PSCAD model for the Plant.

**Customer** has the meaning set out in the **Details**.

**Customer Uploaded Data** means data uploaded by Customer into the Service in the form uploaded, including in the Case Consent Form and AEMO's Create Case Interface.

**Effective Date** means the earlier of the date that:

- (a) AEMO notifies Customer verbally, or in writing, that it accepts a Case Consent Form; or
- (b) AEMO commences providing the Services.

**Energy Legislation** means:

- (a) the National Electricity Law, National Electricity Regulations and National Electricity Rules;
- (b) the National Gas Law, National Gas Regulations and National Gas Rules;
- (c) the National Energy Retail Law, National Energy Retail Regulations and National Energy Retail Rules;
- (d) any legislation applying any of the foregoing in a jurisdiction;
- (e) the Electricity Industry (Wholesale Electricity Market) Regulations 2004 (WA) and Wholesale Electricity Market Rules;
- (f) the Gas Services Information Regulations 2012 (WA);
- (g) any other statute or legislative instrument of the Commonwealth or a State or Territory providing for the establishment, operation or administration of a market for energy or an energy system; and
- (h) any instrument or procedure made under any of the foregoing.

**Engineering Effort Fee** means the hourly rate for engineering effort to create or re-create a Case and provide support to Customer.

**Environment Fee** means the daily rate comprising virtual machine and information technology costs for each day the environment is available for a Case

**Expiry Date** means the date AEMO closes a Case after the Customer actions to close the Case in the Service.

**Further Period** means 12 months.

**Instance** means a single running copy of the Service being accessed or used by an Authorised User.

**Intellectual Property Rights** includes all intellectual property rights throughout the world relating to patents, copyright, designs (registered and registrable), registered and unregistered trademarks, rights to have trade secrets, knowhow and confidential information kept confidential and all other rights to intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967 but excluding any non-assignable moral rights and similar personal author rights.

**Law** means Commonwealth, state, or local legislation, judicial, administrative, or regulatory decrees, judgments, awards or orders and all common laws and equity.

**Licence** means the licence described in **clause 4**.

**Loss** means any damage, loss, cost, liability, or expense (including legal costs and expenses), whether under contract, in equity (including negligence and restitution), under statute or Law or otherwise, and includes Consequential Loss unless stated otherwise.

**Plant** has the meaning given to it in in the National Electricity Rules.

**Power System Security** has the meaning given to it in in the National Electricity Rules.

**Prescribed Terms** means terms, conditions or warranties implied or incorporated by Law into a contract for the supply of goods or services that: cannot be excluded, restricted, or modified; or may be excluded, restricted or modified to a limited extent only.

**Protected Information** has the meaning given to it in in the National Electricity Law.

**Recreate Fee** means the fixed fee payable each time a Case is re-created after previously being closed.

**Registered Participant** has the meaning given to it in in the National Electricity Law and where the Customer is not a Registered Participant, means the Registered Participant for the Plant that is the subject of a Case Consent Form who authorises AEMO to provide access to the Customer and the Third Parties to use the Service to conduct and receive System Strength Impact Assessments conducted in respect of the Plant.

**Representative** means any director, officer, employee, contractor, agent and any other authorised representative of a party.

**Service** means Customer's permitted access to, and use of, the Connections Simulation Tool in accordance with this Agreement.

**System Strength Impact Assessment** has the meaning set out in the National Electricity Rules.

**Term** means the period of the Proof of Concept, as determined by AEMO in its sole discretion, commencing on the Commencement Date and ending on a date advised by AEMO in writing.

**Trade Mark** means a logo, symbol, get-up, trade mark, trade name, service mark, brand name or similar right, whether registered or unregistered.

- 1.2 Capitalised terms not otherwise defined in this **clause 1** are defined in the **Details** and italicised terms are defined in the National Electricity Law or National Electricity Rules.

### **Construction**

- 1.3 Unless a contrary intention appears in this document, a reference to:
- (a) a document (including this Agreement) includes the document as novated, varied, or replaced, and despite any change in the identity of the parties;
  - (b) a clause, paragraph, schedule, or annexure is a reference to a clause, paragraph, schedule, or annexure to this Agreement;
  - (c) a clause is a reference to all its subclauses;
  - (d) legislation includes subordinate legislation and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them;
  - (e) the singular includes the plural and vice versa and a gender includes all genders;
  - (f) the word "**person**" includes a firm, a body corporate, a partnership, an unincorporated association or a government agency and any successor entity to those persons;
  - (g) the word "**includes**" or "**including**" or "**such as**" are not words of limitation, and when introducing an example, do not limit the meaning of the words to which the example relates to examples of a similar kind;
  - (h) a person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
  - (i) a party includes, where the context requires it, that person's directors, officers, employees, contractors, agents and any other persons authorised by that party;
  - (j) an agreement, representation or warranty:



- (i) in favour of two or more persons is for the benefit of them jointly and each of them severally;
  - (ii) by two or more persons binds them jointly and each of them severally;
  - (k) a thing (including an 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;
  - (l) “dollars” or “\$” means Australian dollars; and
  - (m) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes facsimile transmissions and emails.
- 1.4 If a word or phrase is defined in this Agreement, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- 1.5 Headings are inserted for convenience and do not affect the interpretation of this Agreement.
- 1.6 No rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it.

## **2 Term**

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- 2.1 This Agreement commences on the Commencement Date and ends on the later of:
- (a) the Initial Term; or
  - (b) any Extended Term,
- unless terminated earlier in accordance with this Agreement.

## **3 Scope of this Agreement**

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- 3.1 This Agreement constitutes a standing agreement between AEMO and Customer under which Customer may enter into individual Case Agreements with AEMO for the provision of Services during the Term.

### **Customer Consent Form**

- 3.2 Customer may request Services under this Agreement by:
- (a) issuing a Case Consent Form to AEMO; and
  - (b) submitting all requested supporting Customer Data (as set out in AEMO’s Create Case Interface) that is necessary for Customer to successfully perform System Strength Impact Assessments, for AEMO’s consideration and assessment.
- 3.3 If AEMO does not accept a Case Consent Form, AEMO will notify Customer, and if it does so:
- (a) the Case Connection Form will lapse; and
  - (b) no agreement will be formed between AEMO and Customer in respect of the Services.
- 3.4 AEMO is taken to accept a Case Connection Form on the Effective Date, upon which a binding Case Agreement is formed between the parties and applies to the provision of the Services. Subject to clause 14 (Termination) the Case Agreement continues until the Expiry Date.

### **Status**

- 3.5 Each Case Agreement constitutes a separate and binding agreement between the parties incorporating, and subject to, the terms and conditions of this Agreement.

### **Order of precedence**

- 3.6 In the event of any inconsistency between a Case Agreement and any other provision in this Agreement, the other provision in this Agreement will take precedence.

- 3.7 No other terms or conditions will apply to the Services. Customer agrees that any terms and conditions provided by Customer in connection with the Services (whether printed, made available online or deemed accepted, including under a purchase order issued by Customer) have no force and effect, do not operate to amend, replace or vary a Case Agreement in any way and are superseded by a Case Agreement from the Effective Date.

## 4 Licence

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- 4.1 Under each Case Agreement, AEMO grants Customer a non-exclusive, non-transferable licence for its Authorised Users to:
- (a) access and use the Service (including any Documentation provided by AEMO) solely to conduct System Strength Impact Assessments; and
  - (b) use any generated System Strength Impact Assessments,
- solely for Customer's internal business purposes as contemplated by the National Electricity Rules (and not for the benefit of any other person or entity) subject to, and provided that:
- (a) the number of Authorised Users accessing and using the Service at any one time must not exceed the number of Concurrent Authorised Users;
  - (b) the number of Instances of the Service being access or used by an Authorised User must not exceed the number of Concurrent Instances; and
  - (c) the Authorised Users comply with all of the terms and conditions in this Agreement.

### Restrictions on Licence

- 4.2 Customer must not, and must ensure that each Authorised User does not:
- (a) copy, reproduce, disassemble, translate, modify, reverse engineer, adapt, sublicense, lease, sell, transfer, extract or create derivative works of the Service;
  - (b) remove or modify any proprietary notices or labels contained in (or attached to) the Service;
  - (c) bypass, disable or defeat any feature or function of the Service;
  - (d) change any administration settings on any part of the Service;
  - (e) permit any third party to use the Service;
  - (f) make any copies of the Service; and
  - (g) use the Service on any other equipment or system or location other than those approved by AEMO.

## 5 Customer's Obligations

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### Obligations and responsibilities

- 5.1 Customer must:
- (a) comply with:
    - (i) AEMO's policies and procedures on access to, and use of, the Service, including requirements for connecting to the Service set out at <https://aemo.com.au/energy-systems/electricity/national-electricity-market-nem/participate-in-the-market/network-connections/connections-simulation-tool> and
    - (ii) any other instructions given to Customer by AEMO from time to time;
  - (b) ensure that any use of System Strength Impact Assessments fairly records factual material, and does not misrepresent the AEMO Data, the NEM, or AEMO;
  - (c) not use the Service, and must ensure that the Service is not used:

- (i) to commit an offence;
  - (ii) menace or harass any person;
  - (iii) to disseminate any spam, or any obscene, indecent, offensive, or defamatory material; or
  - (iv) for any other activity that is in breach of the Law; and
- (d) make Customer's Authorised Users available to AEMO and provide safe access to Customer's facilities as AEMO reasonably requires to perform the Service, including providing remote access to facilities and equipment, providing assistance in diagnosis, updates and management of the Service, providing access and assistance in connection with any subsequent testing of any corrections AEMO makes (subject to AEMO complying with any reasonable security or access restrictions notified to AEMO in writing).
- 5.2 Customer must ensure its Authorised Users comply with Customer's obligations under this Agreement and do not do or omit to do anything that, if done by Customer, would breach Customer's obligations under this Agreement.
- 5.3 Customer is solely responsible:
- (a) for any use of the Service (including any AEMO Data) by Customer and its Representatives, including for the content and security of any data or information which is sent or received using the Service;
  - (b) for selecting, supplying and maintaining its own systems that are required for it to connect to, access, or use the Service.

#### **Security**

- 5.4 Customer must:
- (a) exercise due care and diligence in selecting which of its Representatives will be Authorised Users; and
  - (b) ensure that all Authorised Users involved in accessing or using the Service are appropriately trained to access and use the Service and are aware of and comply with Customer's obligations under this Agreement.
- 5.5 Customer must ensure:
- (a) that account numbers, user ID, passwords, authentication details and personal identification numbers (PIN) required to access and use the Service are restricted to, and only used by, Authorised Users;
  - (b) preserve the confidentiality and security of any account numbers, user ID, passwords, authentication details and personal identification numbers (PIN) used by its Authorised Users in connection with the Service;
  - (c) it has established and maintains effective technical and physical security measures during the Term, and which are consistent with industry best practice, to protect the integrity and security of the Service, AEMO Data and System Strength Impact Assessments from any unauthorised access, disclosure, or use, and ensure that its handling and storage (both physical and electronic) is effective to restrict access, disclosure, or use to Authorised Users only;
  - (d) it does not tamper with the Service, hinder the Service's operation, or violate the Service in any way, including by using it in a way that exposes the Service to any type of computer virus, malware, or unauthorised access; and
  - (e) it does not use the Service in a way that could access, interfere with, degrade, deny service to, impair the use of, or subvert the security or privacy of AEMO's services, networks, equipment, AEMO Data, or information, or those of another person.
- 5.6 Customer acknowledges and agrees that AEMO may monitor Customer's use of the Service.

## 6 AEMO's obligations

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- 6.1 Customer will be given access to a specified point of presence in AEMO's communications network solely to access and use the Service in accordance with a Case Agreement.
- 6.2 AEMO will use its reasonable endeavours to maintain the Service and keep AEMO Data used in the Service up to date during the Term, but does not guarantee that the Service or AEMO Data will be continuously available or free from errors or faults (including modelling data issues).

## 7 Warranties

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- 7.1 AEMO and its Licensors make no representations or warranties of any kind, whether express or implied, statutory or otherwise, about the Service (or the AEMO Data used in the Service), including accuracy, currency, adequacy, reliability, availability, non-infringement, or suitability for any particular purpose, particular analysis methodology, or use. AEMO excludes any terms implied by Law, except those that cannot be lawfully excluded.
- 7.2 Customer acknowledges and agrees that:
- (a) the Service is provided on an "as-is" basis;
  - (b) the Service (and the AEMO Data used in the Service) is based on historical power system data (which by its nature represents only one point in time in the operation of the power system) and that the power system will change;
  - (a) AEMO Data is reliant on others to inform AEMO of any new or changed data;
  - (c) modelling data issues may exist with the Service;
  - (d) Customer and its Authorised Users must possess sufficient expertise in the use of the Service (and AEMO Data used in the Service) and must exercise and rely on its on its own enquiries, skill and judgment (including the expertise to identify and, when necessary, rectify/isolate any issues) to ensure the validity of System Strength Impact Assessments;
  - (e) Customer must verify and check the accuracy, completeness, reliability and suitability of the System Strength Impact Assessments for any use to which Customer intends to put it, or seek independent expert advice or the advice of the relevant owners of the network and power system plant and loads, before using the System Strength Impact Assessments (or any information contained in it); and
  - (f) Customer has not relied on any statement or conduct by AEMO, including any statement or conduct relating to the quality or accuracy of AEMO Data, or the uses to which it may be put.

## 8 Confidential Information

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- 8.1 Customer's use of the Service and AEMO Data is subject to the confidentiality provisions contained in the National Electricity Rules and this **clause 8**.
- 8.2 Customer must not, and Customer must ensure that its Authorised Users do not, access or attempt to access any other AEMO's service, network, equipment, or AEMO Data, other than as made available as part of the Service.
- 8.3 Customer must keep confidential and must not (without AEMO's prior consent) disclose this Agreement or any details about the Service or a Case Agreement) in any manner to anyone other than:
- (a) to its Representatives who need to know it for Customer to access and use the Service in accordance with a Case Agreement;
  - (b) as required by Law; or
  - (c) to its professional advisers and auditors,
- and any such disclosure must be made on an expressly confidential basis.

## 9 Intellectual Property

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### Intellectual Property in the Service and Created Data

- 9.1 The Intellectual Property Rights, title and any interest in the Service (including any Software, modifications, derivative works or parts thereof), Documentation and related knowledge, and System Strength Impact Assessments:
- (a) are owned by AEMO and/or AEMO's licensors; and
  - (b) are reserved to AEMO and/or AEMO's licensor's other than those expressly granted to Customer in this Agreement under clause 4.
- 9.2 To the extent that any rights in the System Strength Impact Assessments do not vest in AEMO on creation, Customer assigns all Intellectual Property Rights, title and any other interest in the System Strength Impact Assessments to AEMO. Customer must sign all documents and do anything else reasonably necessary to give effect to this **clause 9.2** when asked.

### Intellectual Property in AEMO Data & Customer Uploaded Data

- 9.3 All Intellectual Property Rights in AEMO Data are owned by AEMO.
- 9.4 Customer will retain ownership of Customer Uploaded Data.
- 9.5 Customer must ensure that Customer Uploaded Data is accurate and does not infringe any third party Intellectual Property Rights.
- 9.6 Customer gives AEMO a royalty free, perpetual, unrestricted, irrevocable, non-exclusive world-wide licence to use the Customer Uploaded Data, including the right to combine the Customer Uploaded Data with other AEMO Data to create a System Strength Impact Assessment.

### Customer's Rights

- 9.7 Except for the rights expressly provided in this Agreement and only to the extent expressly so provided, Customer acquires no other interest in the Service or the AEMO Data.

### Protection of Intellectual Property Rights

- 9.8 Customer will, at AEMO's cost and expense, cooperate with AEMO in the protection of any interest in the Service, including by assisting AEMO in the prosecution or defence of actions before courts, administrative agencies, arbitration, or any other legal proceedings necessitated by virtue of Customer's access to, or use of, the Service or AEMO Data.
- 9.9 Customer will promptly notify AEMO of any Claim for a breach of any third party right in the Service or AEMO Data of which it becomes aware.

### Use of Trade Marks

- 9.10 Customer warrants that:
- (a) it will not, without AEMO's consent, represent, suggest or imply in any way whatsoever that AEMO in any way approves of, sponsors, endorses or is affiliated with any products produced by Customer;
  - (b) it will expressly provide on all products and materials relating to any products produced by Customer that they are not sponsored or approved by, or affiliated with, AEMO; and
  - (c) it will not use any Trade Mark of AEMO.

## 10 Suspension

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- 10.1 AEMO may limit, suspend or cancel the Service at any time (including immediately) if:
- (a) the Customer's, or its Authorised User's, access to, or use of, the Service:
    - (i) breaches the terms of a Case Agreement;

- (ii) could interfere with, compromise or adversely impact the Service, or other participants use of the Service; or
  - (iii) is used or accessed in a manner that could access, interfere with, degrade, deny service to, impair the use of, or subvert the security or privacy of, AEMO's services, networks, equipment, AEMO Data or those of another person;
- (b) the supply or use of the Service or AEMO Data is likely to:
- (i) cause death, personal injury or damage to property;
  - (ii) become unlawful;
- (c) Customer does not pay an invoice in accordance with clause 11;
- (d) there is an emergency, or to provide resources to emergency or essential services; or
- (e) AEMO suspects there is any unauthorised access to the Service or AEMO Data (including by a third party).

## **11 Fees and Payments**

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### **Fee**

- 11.1 For each Case Agreement, the Customer must pay the then current Fees published by AEMO as at the Effective Date as set out at: <https://aemo.com.au/energy-systems/electricity/national-electricity-market-nem/participate-in-the-market/network-connections/connections-simulation-tool>.
- 11.2 The Fees comprise the following elements:
- (a) Application Fee;
  - (b) Recreate Fee (if applicable);
  - (c) Engineering Effort Fee; and
  - (d) Environment Fee.

### **Invoicing**

- 11.3 For each Customer Agreement, AEMO will invoice the Customer:
- (a) the applicable once off components of the Fees that are payable on the Effective Date; and
  - (b) each month thereafter.
- 11.4 Invoices must be paid within 30 days of the date of invoice.

## **12 GST**

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### **Sums Exclude GST**

- 12.1 All sums payable, or consideration under this Agreement, are exclusive of GST.

### **Responsibility for GST**

- 12.2 If a supply is subject to GST, the recipient must pay to the supplier an additional amount equal to the Access Fee multiplied by the applicable GST rate at the same time as payment is made for the supply.

### **Administration**

- 12.3 Each party must provide valid tax invoices and assist the other party to claim input tax credits for GST where relevant in connection with this Agreement and to provide such other reasonable assistance to facilitate the management by each party of its GST affairs in connection with this Agreement.

## Defined Terms

- 12.4 In **clause 12**, the expressions “**GST**”, “**consideration**”, “**input tax credit**”, “**recipient**”, “**supplier**”, “**supply**” and “**tax invoice**” have the meanings given to those terms in the in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

## 13 Liability

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### Third party claims

- 13.1 Customer indemnifies AEMO and its licensors against all Loss that might be suffered or incurred by AEMO in connection with any Claim by a third party against AEMO involving an act or omission of Customer in connection with the Service.

### Limitation of warranties and liability

- 13.2 Except as provided by Prescribed Terms, and to the extent permitted by Law, AEMO and its Licensors:
- (a) exclude all terms, conditions and warranties expressed or implied by Law in any way relating to the Services (or the AEMO Data used in the Service) supplied under this Agreement or a Connection Agreement;
  - (b) without limiting **clause 13.2(a)**, expressly disclaim and exclude any term, condition or warranty as to the availability, accuracy, completeness, reliability, quality or fitness for purpose of the Service (or the AEMO Data used in the Service);
  - (c) subject to **clause 13.2(d)**, exclude and shall not be liable to Customer or any other person in respect of any Loss associated with the provision of the Service (or the AEMO Data used in the Service) under this Agreement or a Case Agreement; and
  - (d) liability in connection with any Prescribed Term that cannot be excluded is limited to the resupply of the Service.

### Relationship with Energy Legislation

- 13.3 This Agreement or a Case Agreement does not vary or exclude the operation of any provision in Energy Legislation that limits or excludes the liability of a party.

## 14 Termination

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### Termination by AEMO for Customer’s breach

- 14.1 AEMO may, at its sole discretion, either immediately, or on a period of notice determined by AEMO at its sole discretion, terminate this Agreement or a Case Agreement (including access to the Service) for cause if, in AEMO’s opinion:
- (a) Customer misrepresents AEMO Data or uses AEMO Data to publish comparative or adverse conclusions against the interests of AEMO;
  - (b) a data breach or breach of confidentiality occurs in connection with Customer’s access to, or use of, the Service;
  - (c) does not comply with AEMO’s policies or procedures or advice on access to, and use of the Service;
  - (d) Customer does not pay an invoice in accordance with clause 11;
  - (e) Customer is in breach of any of its obligations under this Agreement and the breach is either incapable of being cured, or if curable, Customer does not cure the breach to AEMO’s satisfaction within 7 days of being required by notice to do so;
  - (f) Customer or a related body corporate engages in fraud or other criminal behavior, including in connection with this Agreement or a Case Agreement, delivery to other customers, or otherwise;

- (g) to the extent permitted by Law, Customer goes bankrupt, or is insolvent, or has any bankruptcy or insolvency action taken against it (by whatever description); or
- (h) Customer ceases to carry on business or substantially alters the nature of its business existing as at the date of this Agreement.

#### **Termination for convenience**

14.2 Either party may terminate this Agreement without cause by giving the other party 7 days' notice.

#### **Consequences of Termination**

14.3 Termination of this Agreement is without prejudice to any rights or liabilities of the parties accruing prior to the date of termination.

14.4 Customer must:

- (a) pay any unpaid invoices at the date of termination in accordance with clause 11;
- (b) pay any portion of accrued Fees for Services performed by AEMO (up to the date of termination) and subsequently invoiced by AEMO, in accordance with clause 11; and
- (c) return to AEMO any tokens, fobs or other items facilitating Customer access to the Service immediately,

upon the termination or expiry of this Agreement.

## **15 Dispute resolution**

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#### **Activation of Dispute Resolution Process**

15.1 If a party claims that a dispute has arisen in relation to this Agreement or a Case Agreement they must give the other party a notice ("**Dispute Notice**").

15.2 A Dispute Notice must include details of:

- (a) the nature of the dispute and the circumstances giving rise to the dispute;
- (b) the party's proposed resolution of the dispute; and
- (c) contact details of that party's delegate with authority to resolve the dispute ("**Delegate**").

#### **Referral to Delegates**

15.3 If a Dispute Notice is given by a party, the other party must nominate a Delegate with authority to resolve the dispute within 7 days of receipt of the notice of the Dispute Notice and the parties' Delegates must meet within 14 days of receipt of the Dispute Notice and use their best endeavours to agree to a resolution of the dispute.

#### **Referral to Independent Expert**

15.4 If the parties' Delegates do not resolve the dispute within 7 days of their first meeting, the parties agree to refer the dispute to an independent expert for determination, where:

- (a) the independent expert must be nominated by the Chairman, Institute of Arbitrators & Mediators Australia (Victorian Chapter);
- (b) any meetings required by the independent expert may be held at a venue and time as reasonably determined by the independent expert in consultation with the parties; and
- (c) the referral will be performed in accordance with the Institute of Arbitrators & Mediators Australia rules and standard form agreement current at the time.

15.5 Unless otherwise agreed, the costs of the independent expert are to be borne equally by the parties.

15.6 A party has no recourse to litigation in relation to a dispute in relation to this Agreement or a Case Agreement unless it has complied with **clause 15**.



### **Urgent Interlocutory Relief**

15.7 **Clause 15.6** does not prevent a party seeking an urgent interlocutory injunction from a court of competent jurisdiction.

### **Parties to Continue Performance of this Agreement**

15.8 Unless otherwise agreed, the parties must continue to perform their obligations under this Agreement or a Case Agreement despite the existence of a dispute.

## **16 Miscellaneous**

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### **Notices**

16.1 A Communication must be in writing and given by or to the other party's Contact or left at, sent by ordinary pre-paid post or by facsimile or email to, the address or number specified in the **Details**.

16.2 Unless a later time is specified in it, a communication takes effect from the time it is received. A communication is taken to be received:

- (a) for a posted letter, 3 days after posting (or 7 days if posted outside Australia);
- (b) for an email, at the time shown on a delivery confirmation report received by the sender recording the time the email was successfully delivered to the addressee's last notified email address; and
- (c) for facsimile, at the time shown on a transmission report by the machine from which it was sent indicating that it was sent in its entirety to the facsimile number of the recipient.

### **Audit**

16.3 At any time and upon giving Customer not less than 7 days' notice of its intention to do so and specifying the scope of the audit, AEMO may audit any records maintained by Customer to determine whether Customer is complying with this Agreement or a Case Agreement. Customer must co-operate with AEMO and provide AEMO with such access to all relevant records and personnel as is reasonably necessary for AEMO to conduct the audit.

### **Assignment & Subcontracting**

16.4 Customer must not assign, transfer, novate or encumber its rights or obligations under this Agreement or a Case Agreement, or declare itself a trustee in relation to this Agreement or a Case Agreement, without AEMO's consent.

16.5 AEMO may assign this Agreement or a Case Agreement at any time.

### **Waiver and Variation**

16.6 A right may only be waived or varied in writing, signed by the party giving the waiver or variation; and

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver or variation of the right, or otherwise prevents the exercise of the right;
- (b) a waiver or variation of a right on one or more occasions does not operate as a waiver or variation of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

### **Amendment**

16.7 An amendment to this Agreement or a Case Agreement will be effective only if made in writing and signed by the parties.

### **Approvals and consent**

16.8 AEMO may exercise its rights, remedies or powers in any way it considers appropriate.

### **Remedies cumulative**

- 16.9 A party's rights, powers and remedies under this Agreement or a Case Agreement are in addition to the rights, powers or remedies provided by Law.

### **Indemnities**

- 16.10 Any indemnities in this Agreement or a Case Agreement re continuing obligations, independent from the parties' other obligations under this Agreement or a Case Agreement and continue after this Agreement or a Case Agreement ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this Agreement or a Case Agreement.

### **Severance**

- 16.11 If a provision of this Agreement or a Case Agreement is void, unenforceable, or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this Agreement remains effective and the validity or enforceability of that provision in any other jurisdiction is not affected. This **clause 16.11** has no effect if the severance alters the basic nature of this Agreement or a Case Agreement or is contrary to public policy.

### **No merger**

- 16.12 The warranties, undertakings and indemnities in this Agreement or a Case Agreement do not merge on the expiry or termination of this Agreement or a Case Agreement.

### **Supervening legislation**

- 16.13 Any present or future legislation that operates to vary Customer obligations under this Agreement or a Case Agreement with the result that AEMO's rights, powers, or remedies are adversely affected (including by way of delay or postponement) is excluded, except to the extent that its exclusion is prohibited or rendered ineffective by Law.

### **Counterparts**

- 16.14 This Agreement or a Case Agreement may be executed in multiple counterparts, each signed by one or more parties to the Agreement or a Case Agreement. If so, each signed counterpart shall be deemed an original Agreement or a Case Agreement, and each of which shall constitute one and the same Agreement or a Case Agreement. The date of this Agreement or a Case Agreement is the date on which the last counterpart was signed. The counterparts of this Agreement or a Case Agreement may be executed and delivered by email or other electronic signature by one or more of the parties and the receiving party or parties may rely on the receipt of such document so executed and delivered electronically as if the original had been received

### **Entire agreement**

- 16.15 This Agreement or a Case Agreement and any documents incorporated by reference constitute the entire agreement of the parties about its subject matter and supersedes any previous agreements, understandings and negotiations on that subject matter.

### **Survival**

- 16.16 Clauses **1, 4, 5, 7, 8, 9, 13, 15** and **16** survive the end of this Agreement or a Case Agreement.

### **Governing Law**

- 16.17 This Agreement or a Case Agreement is governed by the Law in force in Victoria. Each party submits to the non-exclusive jurisdiction of the courts of that state.

### **EXECUTED as an agreement**



# Attachment 1: Case Consent Form

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## 1 Case Consent Form

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### Status

- 1.1 This Case Consent Form::
- (a) is a request by the Customer to access and use the Service for the Case described below;
  - (b) includes the Customer Data submitted by Customer to AEMO through the Create Case Interface that AEMO requires to provide the Service;
  - (c) subject to clause 3 of the Agreement, is a separate contract entered into between Supplier and AEMO under the Agreement; and
  - (d) incorporates the terms of (and is subject to) the terms and conditions of the Agreement, including the defined terms in the Agreement, or as otherwise defined in Table 1 below,
- (Case Agreement).**

### Completing this Case Consent Form

- 1.2 Where the Customer is:
- (a) the Registered Participant for the Plant that is the subject of the Case, the Customer must complete and sign Part 2 below; and
  - (b) not the Registered Participant for the Plant that is the subject of the Case, but is authorised by the Registered Participant for the Plant that is the subject of the Case to conduct the Case on the Client's behalf:
    - (i) the Customer must complete and sign Part 2 below, and
    - (ii) the Customer must arrange for the Registered Participant for the Plant that is the subject of the Case to complete and sign Part 3 below.

## 2 Request by Customer

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- 2.1 The Customer must complete the details in Table 1 (Customer Request) as part of this Case Consent Form.

<b>Table 1: Customer Request</b>	
Customer	
Customer ABN	
Registered Participant for the Plant that is the subject of the Case (if not the Customer)	
Unique Case Name  Note: Customer to ensure Case Name it submits is unique and separate from previous Cases submitted by Customer	

Is this a new Case or a Recreate Case	
Plant that is the subject of the Case	
Third Parties authorised to use the Services on behalf of the Customer	
Number of Concurrent Authorised Users:	
Number of Concurrent Instances:	1
Accounts payable name for invoices	
Accounts payable phone number for invoices	
Accounts payable email address for invoices	
Purchase order or reference for invoices	

2.2 By signing this Case Consent Form, Customer requests AEMO to provide the Service for the Case.

**SIGNED** by ..... )  
as authorised representative for **CUSTOMER** )  
) )  
) )  
) )  
) )  
) )  
) )  
) )  
) )  
) )

.....  
By executing this Case Consent Form the signatory warrants that the signatory is duly authorised to execute this Case Consent Form on behalf of **CUSTOMER** under the Agreement.

Date:.....

### 3 Authorisation by Registered Participant (where different from Customer)

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- 3.1 By signing this Case Consent Form, the Registered Participant for the Plant that is the subject of the Case authorises AEMO to provide access to the Customer and the Third Parties to use the Service to conduct and receive System Strength Impact Assessments conducted in respect of the Plant.

**SIGNED by .....** )  
**as authorised representative for** )  
**REGISTERED PARTICIPANT** )  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

.....  
By executing this Case Consent Form the signatory warrants that the signatory is duly authorised to execute this agreement on behalf of **REGISTERED PARTICIPANT**

Date:.....