



Renewable Energy Buyback Scheme

Terms & conditions for purchase
of renewable source electricity

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Terms & conditions for purchase of renewable source electricity

1. Definitions

When used in these terms and conditions these terms mean the following:

2020 Ministerial Direction means “Electricity Corporations (Electricity Generation and Retail Corporation – Renewable Energy Buyback Scheme) Direction 2020” made by the Minister under s 111 of the *EC Act* on 19 August 2020;

application form means the *Synergy* form titled “Renewable Energy Buyback Scheme Application”, or another form designated by *Synergy* from time to time, as amended in accordance with clause 15.

AEMO has the meaning in the *market rules*.

balance means the amount on the *bill* payable by *Synergy* to the *customer* which exceeds the amount owed by the *customer* to *Synergy*.

bill means the invoice that *Synergy* sends the *customer* for the supply of electricity under the *electricity supply agreement*.

billing period means the length of the period covered by each *bill*.

combined rate means the *REBS buyback rate* and, in addition, if the *customer* is a *qualified feed in tariff customer*, the *subsidy rate*.

committed customer means a *residential customer* who submits to *Synergy* a *valid feed in tariff application* by 5:00 pm western standard time on 14 October 2011 (including but not limited to statutory declarations stating a contractual commitment to purchase a *small renewable energy system* prior to 8:00 am western standard time on 1 August 2011) where that application is approved by *Synergy*.

contract means:

- ✦ an *application form* incorporating these *Synergy* Renewable Energy Buyback Scheme Terms and Conditions for Purchase of Renewable Source Electricity, which is completed and signed by the *customer* and approved by *Synergy*; and
- ✦ (where applicable) a *feed in tariff application* incorporating these *Synergy* Renewable Energy Buyback Scheme Terms and Conditions for Purchase of Renewable Source Electricity, that was completed and signed by the *customer* and was approved in accordance with clause 17.3,

as amended from time to time in accordance with clause 15.

customer means the person who has lodged an *application form*, and whose *application form* has been approved by *Synergy*.

connection point means an exit or entry point on the **Western Power network** identified in *Synergy's* Electricity Transfer Access Contract with Western Power.

EC Act means the *Electricity Corporations Act 2005*, as may be amended or replaced from time to time.

EI Act means the *Electricity Industry Act 2004*, as may be amended or replaced from time to time.

electricity supply agreement means a contract for the supply of electricity by *Synergy* to the *customer* referred to in clause 2.

eligible customer has the same meaning given in the *2020 Ministerial Direction*.

{Note: as at 31 August 2020, the 2020 Ministerial Direction provides that the definition of 'eligible customer' is the same as in the Electricity Industry (Licence Conditions) Regulations 2005 and, at the same date, the Regulations contain the following definition:

eligible customer means —

- (a) a customer —
 - (i) to whom electricity is supplied for residential purposes; and
 - (ii) who consumes not more than 50 MWh of electricity per annum;
- (b) a customer that is a school, university or other educational institution; or
- (c) a customer that is a non-profit making organisation;}

ETAC means the agreement between *Synergy* and *Western Power* called the Electricity Transfer Access Contract, dated on or around 1 July 2016, as amended or replaced from time to time.

feed in tariff application means a *Synergy* form (as published by *Synergy* and as amended from time to time in accordance with clause 15) for applying for the payment of the net feed in tariff).

GST has the meaning given to that term in the *GST Act*.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), as may be amended from time to time.

GST Law has the meaning given to that term in the *GST Act*.

GSTR 2000/10 means the Goods and Services Tax Ruling *Goods and services tax: recipient created tax invoices*, as may be amended or replaced from time to time.

market rules means the rules created in accordance with 123 of the *EI Act*.

meter has the same meaning given in the *Electricity Industry Metering Code 2005*.

Minister means the Minister who administers the *EI Act*.

Ministerial Direction means:

- ✦ the *2020 Ministerial Direction*; and
- ✦ any future direction given by the Minister under s 111 of the *EC Act* that expressly or impliedly requires *Synergy* to amend a term of this contract, including price.

Minister required amendment means a proposed amendment to this *contract* approved by the *Minister* under clause 18 of the *2020 Ministerial Direction*.

net export means the amount of *renewable energy* exported into the *Western Power network*, which is surplus to the consumption at the *premises*, as recorded by the *meter*.

Net feed in tariff terms and conditions means the terms and conditions set out in clause 17 (including, but not limited to, the *Subsidy scheme criteria*) and applicable to *customers* who wish to receive the *subsidy rate* for the sale of *renewable energy* exported.

non-residential customer means any *customer* other than a *residential customer*.

qualified feed in tariff customer means a *customer* who, in accordance with clause 17, has been approved by *Synergy* as meeting the *Subsidy scheme criteria*.

premises means the premises nominated in the *application form*, which must be the same as the *premises* set out in the *electricity supply agreement*.

REBS Application Closure Date has the meaning given in the *2020 Ministerial Direction*.

{Note: as at 31 August 2020, the 2020 Ministerial Direction provides that the definition of 'REBS Application Closure Date' means 7 September 2020.}

REBS and Net feed in tariff price schedule means the *REBS buyback rate*, the *subsidy rate*, *Synergy REBS fees* and other costs and charges applicable to the *contract*, as published by *Synergy* from time to time.

REBS buyback rate means *renewable energy* exported purchase rates payable by *Synergy* from time to time as set out in the *REBS and Net feed in tariff price schedule*, as amended from time to time in accordance with clause 15.

renewable energy exported means electricity generated by the *system* and transferred into the *Western Power network* through the *connection point* as recorded on the *meter* (in kWh) on a *net export* basis.

residential customer means a *Synergy customer* who is supplied electricity under an *electricity supply agreement* solely for domestic use by that *customer*.

small renewable energy system has the same meaning given in the *2020 Ministerial Direction*.

{Note: as at 31 August 2020, the 2020 Ministerial Direction provides that the definition of 'small renewable energy system' is the same as in the Electricity Industry (Licence Conditions) Regulations 2005 and, at the same date, the Regulations contain the following definition:

small renewable energy system means —

- ✦ a system of photovoltaic arrays; or
- ✦ a system of wind turbines; or
- ✦ a hydro power system; or
- ✦ another system for the generation of electricity from a renewable energy source,

that has a generating capacity exceeding 500 W but not exceeding 5 kW).

SSES application form means the Western Power form entitled "Application to connect Small Scale Renewable Energy systems to the *Western Power network*" as amended or replaced by Western Power from time to time.

subsidy rate means the net feed in tariff subsidy rate (in cents per kWh) set by the *subsidy scheme* and published by *Synergy* from time to time in the *REBS and Net feed in tariff price schedule*. The *subsidy rate* credited to a *qualified feed in tariff customer's bill* is subject to change from time to time and is additional to the *REBS buyback rate*.

subsidy scheme means net feed in tariff subsidy scheme including the *subsidy rate* and *Subsidy scheme criteria* announced by the Minister for Energy on 27 May 2010 (as amended from time to time) to encourage *system ownership* by residential customers participating in the Renewable Energy Buyback Scheme.

Subsidy scheme criteria means the criteria set by the state government from time to time determining the eligibility of a customer to be a *qualified feed in tariff customer*. The current *Subsidy scheme* criteria are set out in schedule 1.

subsidy scheme suspension means 8:00am western standard time on 1 August 2011.

Storage works has the meaning given in the *EI Act*.

{Note: as at 31 August 2020 the *EI Act* contains the following definition:

Storage works means any wires, apparatus, equipment, plant or buildings used, or to be used, for, or in connection with, or to control, a storage activity.}

system means a *small renewable energy system* and connection approved by Western Power for the provision of electricity by the *customer* into the *Western Power network* through a *connection point*.

technical rules has the meaning given to it in clause 1.3 of the *Electricity Networks Access Code 2004*.

valid feed in tariff application means a *feed in tariff application* that is duly completed and signed by the *customer* and received by *Synergy*.

Western Power means the Electricity Networks Corporation trading as Western Power ABN 18 540 492 861.

Western Power network means the electricity network owned, operated and maintained by Western Power within the *South West Interconnected System*.

South West Interconnected System or **SWIS** has the meaning given to it in section 3 of the *EI Act*.

Synergy means the Electricity Generation and Retail Corporation trading as Synergy ABN 58 673 830 106 of 219 St Georges Terrace, Perth WA 6000.

2. Electricity supply agreements

- 2.1 If the *customer* has an existing *electricity supply agreement* with *Synergy* for the supply of electricity by *Synergy* to the *customer* at the *premises* (whether under a written contract or pursuant to the *EI Act* or the *EC Act*, clause 3.2(a) of this *contract* does not apply.

3. Condition precedent

- 3.1 The terms and conditions of this *contract* (other than clauses 1 and 2 and this clause 3) are subject to, and are of no force and effect, until the following condition precedent has been fulfilled:
- (a) if the *customer* does not already have an existing *electricity supply agreement* to purchase electricity from *Synergy*, then the *customer* and *Synergy* entering into an agreement for the supply of electricity by *Synergy* to the *customer* at the tariff rate nominated by the *customer* and otherwise on the terms and conditions set out in a contract that complies with the requirements of Part 3 of the *EI Act* (if applicable);
 - (b) unless *Synergy* advises the *customer* in writing that the application is not required, the *customer* has applied to Western Power to connect the *system* to the *Western Power network*; and
 - (c) the *system* has been connected to the *Western Power network* at a *connection point* located at the *premises*.
- 3.2 If the condition precedent in:
- (a) clause 3.1(a) has not been satisfied by a date which is 90 days after the date of *Synergy* approving the *customer's application form* then

either party may terminate this *contract* by giving the other party not less than 10 days prior written notice;

- (b) clause 3.1(b) has not been satisfied by a date which is 90 days after the date that *Synergy* received the customer's application, then this contract is terminated from that date; and
- (c) clause 3.1(c) has not been satisfied by a date which is 180 days after the date Western Power approves the *customer's application*, made in accordance with clause 3.1(b), to connect the *system* to the *Western Power network*, then this *contract* is terminated from that date.

4. Commencement date

- 4.1 Sale of electricity by the *customer* in accordance with this *contract* shall commence on the date which is the later of:
 - (a) the date of satisfaction of the condition precedent set out in clause 3.1; and
 - (b) the date on which the *system*, and the necessary *meter* and *meter* related equipment as determined by Western Power or requested by *Synergy*, have been installed and are ready to import and export electricity from and to the *Western Power network* through the *connection point*.
- 4.2 In the event of any defect in the *system* and/or *meter* and *meter* related equipment or any delay in the installation of any of them, then subject to clause 11.3, *Synergy* shall have no liability for any loss (either direct or indirect) suffered or incurred by the *customer*, whether arising out of or in connection with *Synergy's* breach of *contract*, its breach of statutory duty, its negligence or otherwise.

5. Renewable energy sale rates

- 5.1 Subject to the terms of this *contract*, *Synergy* will purchase *renewable energy exported* by the *customer* at the *REBS buyback rate*.
- 5.2 For the avoidance of doubt, this *contract* governs the sale of *renewable energy exported* by the *customer* to *Synergy* only. The purchase of electricity by the *customer* from *Synergy* is governed by the terms of the *electricity supply agreement*.

6. System and other obligations

- 6.1 Without limiting the *customer's* obligations under clause 7.1 in any way, the *customer* at its cost must ensure that the *system*, including the output of the *system*, complies with

all relevant laws, including the *technical rules*. In addition, the *customer* must pay all costs associated with the installation and maintenance of the *system*.

- 6.2 Without limiting the customer's obligations under clause 7.1 in any way, the *customer's system* may be disconnected from the *Western Power network*, or otherwise curtail the output of the *system*, for operational reasons or for planned maintenance.
- 6.3 Without limiting the customer's obligations under clause 7.1 in any way, the *customer's system* may be disconnected, or otherwise curtailed, from the *Western Power network* at any time without notice in an Emergency. In this clause, Emergency means an actual or imminent situation that in *Synergy's* or *Western Power's* opinion, or in the opinion of or any other person or regulatory or statutory body with jurisdiction over such matters would or is likely to jeopardise network integrity of all or any part of the *Western Power network* or public or personal safety.
- 6.4 If the *Western Power network* is unable or not permitted to accept electricity exported from the *system* for any reason then no amounts are payable to the *customer*. *Synergy* will only purchase (and pay for) *renewable energy exported* at the *connection point*.
- 6.5 So that the *meter* can be read as part of the *meter* reading procedures applicable under the *electricity supply agreement*, the *customer* must facilitate safe and free access to the *meter* for this purpose.
- 6.6 The *customer* must provide additional safe and secure space that meets the *system compliance* requirements specified in the *SSES application form*, for the installation and operation of the *system*.
- 6.7 If a *qualified feed in tariff customer* wishes to receive the *subsidy rate* the *customer* is bound by and must comply with the *Subsidy scheme criteria* and the *Net feed in tariff terms and conditions*.
- 6.8 For the avoidance of doubt, the *customer's* obligations under this *contract*, including under this clause 6, are unaffected if the *system* is owned by a third party.

7. Laws, approvals, liaison and information

- 7.1 The *customer* must at all times comply with all applicable laws, including, without limitation, by obtaining and maintaining all necessary licences, permits and/or approvals from all relevant authorities (including building and planning approvals) required for it to generate electricity and to export electricity into the *Western Power network*.
- 7.2 Without limiting the *customer's* obligations under clauses 6.1 or 7.1 in any way, the *customer* must maintain the *system* (and all associated equipment) in good working and

reliable order and available for export of electricity to the *Western Power network*.

7.3 The *customer* must:

7.3.1 submit a Synergy “Renewable Energy Buyback Scheme Change of System Application” form (as amended or replaced by Synergy from time to time); and

7.3.2 obtain Synergy’s consent in writing to the change, before any change is made to the *system* (including, but not limited to, any operational, structural or functional change); including in particular, but not limited to, any change in the *system* generation capacity or its export capacity. Failure to do so may result in, but is not limited to, the *customer* being ineligible for the *subsidy rate*, the *REBS buyback rate* and/or termination of this *contract*. Any such consent given by Synergy does not in any way limit, remove, vary or waive (or condone or ratify any breach of) any of the *customer’s* obligations under the *contract* (including, but not limited to, the *customer’s* obligations under clauses 6.1, 7.1 or 7.2).

7.4 The *customer* must provide Synergy with information Synergy reasonably requires for the purposes of the *contract* (i.e. REBS and *subsidy scheme* related matters); or which relates to the *contract*; or in relation to complying with a *Ministerial Direction*.

7.5 In the event Synergy requests information:

7.5.1 the *customer* must ensure all information provided to Synergy is true, correct and not misleading or deceptive.

7.5.2 Synergy reserves its rights, including, but not limited to, *contract* termination, if information provided by a *customer* is incorrect, misleading or deceptive.

7.5.3 The *customer* must provide the information in the required format and by the specified deadline. Failure to do so may result in *contract* termination or the *customer* being ineligible for the *REBS buyback rate* and/or the *subsidy rate*.

7.6 Synergy is permitted to use information provided by the *customer* as necessary for Synergy to comply with its obligations under the *contract* or for purposes relating to the *contract* and in accordance with applicable law. The *customer* must bear its own costs in relation to performance of its obligations under this *contract* and applicable law.

7.7 Synergy is permitted to disclose information to the state and federal governments and regulatory authorities, including AEMO, for the purposes of or relating to the *contract*. Such information includes but is not limited

to *customer* details, confirmation of *system* installation, *customer* and *system* eligibility, reporting of *customer* uptake and the amount of *renewable energy* exported.

7.8 The *customer* consents to Synergy obtaining any information relating to the *system* from third parties, including *Western Power*, that Synergy reasonably considers is relevant to this *contract*.

8. Payment for renewable energy exported

Synergy’s payment obligation

8.1 Synergy is required to issue a *bill* for electricity consumed by the *customer* under the *electricity supply agreement*. On that *bill*, Synergy will also set out the amounts payable by Synergy to the *customer* for the purchase by Synergy of *renewable energy* exported from the *system*. Those amounts will be determined and paid by Synergy in accordance with:

8.1.1 if the *customer* is a *residential customer* or a *non-residential customer* not registered for GST, clause 8.2 and (if applicable) clause 8.3; or

8.1.2 if the *customer* is a *non-residential customer* who is registered for GST, clauses 8.4, 8.5 and 13.

Payments for residential customers and non-residential customers not registered for GST

8.2 Synergy will pay a *residential customer* or a *non-residential customer* not registered for GST for the *renewable energy* exported by providing a credit on the *bill* for the amount of *renewable energy* exported during the relevant *billing period* (which, subject to clause 8.7, is to be based on a reading of the meter) multiplied by the *combined rate*.

The *subsidy rate* (if applicable) and the *REBS buyback rate* will be set out as separate line items on the *bill*.

8.3 Subject to clause 8.10, if the *balance* on a *residential customer’s bill* exceeds \$100, then within 14 days of receipt of a written request from the *residential customer* or such other notification as agreed to by Synergy, Synergy must pay the *balance* to the *residential customer*. Synergy may charge a fee to recover its reasonable administration costs of making this payment.

Payments to non-residential customers registered for GST

8.4 If a *customer* is a *non-residential customer* who is registered for GST, then that *customer* and Synergy agree that the *bill* issued in accordance with clause 8.1 will be accompanied by a recipient created tax invoice for the purposes of the *GST Law* and the *GSTR 2000/10* (“**RCTI**”) in respect of the purchase by Synergy of *renewable energy* exported from the *system*.

8.5 Synergy will, after setting off any amounts permitted under clause 8.10, pay the *non-residential customer* the amount of the *renewable energy exported* by providing a credit on the *bill* for the amount of *renewable energy exported* during the relevant *billing period* (which, subject to clause 8.7, is to be based on a reading of the *meter*) multiplied by the *REBS buyback rate*.

Terms applicable to all customers

Refund of *balance*

8.6 Subject to clauses 8.3 and 8.10, Synergy may (on terms acceptable to it) offer to pay the *customer* all or part of the *balance*. If the *customer* accepts the offer (and any terms), Synergy must pay the *balance* to the *customer*.

Estimating *renewable energy exported*

8.7 Synergy may estimate the quantity of *renewable energy exported* in accordance with the provisions of the *electricity supply agreement* or any applicable law (including but not limited to, where the export *meter* is faulty or consumption and export flows are not properly recorded or (contrary to clause 6.5) safe and free access to the *meter* has been denied).

Over crediting and under crediting

8.8 Subject to clause 8.10, if Synergy under credits a *customer* for any reason (including where the *meter* has been found to be defective or one or more estimated readings have been followed by an actual reading), then Synergy will credit the amount of that under credit to the *customer's* account.

8.9 Subject to clause 8.10, if Synergy over credits the *customer* for any reason (including where the *meter* has been found to be defective, as a result of breach of this *contract* by the *customer*, or Synergy determines that the *customer* is no longer eligible to receive part or all of the *combined rate* or one or more estimated readings have been followed by an actual reading) then Synergy may require the *customer* to make a correcting payment or may add the amount owed to the *customer's bill* under the *electricity supply agreement*. In doing so, Synergy may offer the *customer* the option to pay the correcting payment by instalments.

Synergy's set-off rights

8.10 Nothing in this *contract* limits Synergy's ability at law to set off:

- 8.10.1 any *balance* or amount Synergy owes to the *customer* under this *contract* against any amount the *customer* owes to Synergy under the *customer's electricity supply agreement* or under another contract the *customer* has with Synergy;
- 8.10.2 any amount the *customer* owes to Synergy under this *contract* or under the *customer's electricity*

supply agreement or under another contract the *customer* has with Synergy against any amount Synergy owes to the *customer* under this *contract*.

Final payment to *customer* on termination of the *contract*

8.11 On termination of the *contract* Synergy will, at the *customer's* election:

- 8.11.1 credit any *balance* set out in the last *bill*, to any new account the *customer* establishes with Synergy; or
- 8.11.2 pay the *customer* any *balance* set out in the last *bill* by electronic funds transfer ("EFT") to the bank account nominated by the *customer*.

Change in GST registration status

8.12 If a *non-residential customer* who is not registered for GST subsequently becomes registered, the *non-residential customer* must immediately notify Synergy in writing of this change, and clauses 8.4, 8.5 and 13.7 of this *contract* will apply from the time the notice is given.

No interest payable on *balances* or credits for *renewable energy exported*

8.13 Nothing in this *contract* requires Synergy to pay interest on the amount of any *balance* or other payment under this *contract*.

9. Termination

9.1 The *customer* may terminate this *contract* at any time by giving at least the same period of notice as is required to be given by the *customer* for termination under the *electricity supply agreement*.

9.2 Synergy may terminate this *contract* at any time if any of the following occurs:

- 9.2.1 the *customer* sells or transfers or vacates the *premises*;
- 9.2.2 the *customer* notifies Synergy that it elects to terminate the *contract*;
- 9.2.3 the *customer* fails to comply with any of clauses 6.1, 7.1, 7.2 or 7.3;
- 9.2.4 the *customer's premises* or *system* or both cease to be connected to the *Western Power network* at a *connection point*;
- 9.2.5 Western Power ceases to provide sufficient network services to Synergy to enable Synergy or the *customer* or both to:
 - 9.2.5.1 comply with any or all of their obligations; or

9.2.5.2 utilise any or all of their rights, under this *contract*.

9.3 The *contract* terminates on the day that:

- 9.3.1 the electricity supply agreement with the customer for the premises ends for any reason;
- 9.3.2 if the Minister makes a Ministerial Direction, or another change in law occurs, that has the effect that Synergy is no longer required to offer contracts to customers that are the same, or substantially similar, to this contract;
- 9.3.3 the customer enters into a new agreement with Synergy that governs the operation of the system and/or the purchase of net energy exported at the premises;
- 9.3.4 the customer ceases to be an eligible customer; or
- 9.3.5 the *system* ceases to be a *small renewable energy system*,

such termination is subject and without prejudice to any earlier expiry or other termination of all or any part of the *contract* for any reason (including, but not limited to, expiry or other termination for any reason of the part of the *contract* formed by approval of a *feed in tariff application* approved in accordance with clause 17.3).

9.4 If the *customer* sells, transfers or vacates the *premises*, the *customer* must before the date the *customer's electricity supply agreement* ends, inform the new owner or occupant that it must submit a new *application form* for acceptance and approval by Synergy if the new occupant or owner wants to sell *renewable energy exported* to Synergy under a contract on the same, or similar, terms as this *contract*. For the avoidance of doubt, Synergy is under no obligation under this *contract* to enter into such a contract with the new owner or occupant;

9.5 If after REBS Application Closure Date, the *customer* makes an application under clause 7.3 to change the *system* to:

- 9.5.1 upgrade their existing small renewable energy system including, but not limited to, by increasing the capacity of that system;
- 9.5.2 install storage works at the premises that have the capability to export electricity to the Western Power network; or
- 9.5.3 install apparatus or equipment at the premises that enables storage works comprised in an electric vehicle to have the capability of exporting electricity to the Western Power network,

then, unless the change to the *system* is a replacement of the photo-voltaic panels or inverter on a like-for-like basis, this *contract* is terminated on the day Synergy approves the change to the *system*.

9.6 If the *customer* fails to comply with any of its obligations under this *contract*, Synergy may give a notice in writing to the customer requiring the *customer* to remedy the default and if the *customer* fails to remedy the default within the time specified by Synergy, Synergy may terminate this *contract* by giving 14 days' notice in writing.

9.7 Upon termination of this *contract*, the *customer* must ensure that no electricity is exported through the *connection point* to the *Western Power network* from the *system* or otherwise from the *premises*. Synergy may at the *customer's* cost and expense (payable on demand) take appropriate action (including disconnection of the *meter* or reprogramming of the *meter*) to ensure that no electricity is exported.

9.8 Synergy must pay to the *customer* any outstanding amount payable to the *customer* under this *contract* within 29 days of termination of this *contract*.

9.9 Clauses 1, 6, 7, 9.7, 9.8, and 12 continue to have force and effect after the termination of this *contract* until the date any of the following occurs:

- 9.9.1 the *customer* enters into a new contract with Synergy governing the operation of the *system*;
- 9.9.2 provided the *customer* is the registered owner of the *premises*, the *customer* permanently vacates the *premises* and either:
 - 9.9.2.1 the *system* is disconnected from the *Western Power network*; or
 - 9.9.2.2 a new customer occupies the *premises*; or
- 9.9.3 the *customer* becomes the customer of a retailer other than Synergy and the *connection point* at which the *system* is connected is removed from Synergy's ETAC.

9.10 Clause 11 continues to have force and effect after the termination of this contract for any actions or omissions that occur prior to the date any of the events in clauses 9.9.1 to 9.9.3 occur.

9.11 For the avoidance of doubt, the termination of this *contract* does not affect the continued operation of the *electricity supply agreement*.

10. Meter

- 10.1 The *customer* must pay all costs associated with the supply, reprogramming, modification and installation of any *metering equipment* when such supply, reprogramming, modification and installation is required in order for the customer to comply with any of its obligations under this contract. The current charges are set out in the *REBS and Net feed in tariff Price Schedule*. These charges are subject to change from time to time. The *customer* should check the current charges prior to signing the *application form*.
- 10.2 The *meter* always remains the property of Western Power.

11. Liability for damage

- 11.1 The *customer* is responsible for the *system* and its use. Subject to clause 11.3, the *customer* agrees that *Synergy* will not be liable for any loss, damage or injury that may be caused by the *system* or its use.
- 11.2 Without limiting the *customer's* obligations under clauses 6.1, 7.1 or 7.2 in any way, the *customer* must install adequate protection devices to protect the *system* from faults (including without limitation, power surges) on the *Western Power network*. Subject to clause 11.3, *Synergy* will not accept liability for any loss or damage to the *customer's system* or for any injury arising as a result of the *customer* failing to install such protection device.
- 11.3 Subject to clause 12, but otherwise despite any other provision in this *contract*, nothing in this *contract* is to be taken to exclude, restrict or modify:
- 11.3.1 any rights of recovery or to compensation the *customer* may have under law (including, but not limited to under the Australian Consumer Law, where applicable); or
- 11.3.2 any other condition, warranty, guarantee or right the *customer* may have under law (including, but not limited to any consumer guarantee under the Australian Consumer Law, where applicable),

to the extent that *Synergy* is prohibited by law from excluding, restricting or modifying them. All other conditions, warranties, guarantees and rights (including, but not limited to, any rights of recovery or to compensation), whether or not implied by law, are, to the extent permitted by law, excluded to the fullest possible extent.

- 11.4 Subject to clauses 11.3 and 12, but otherwise despite any other provision in this *contract* and to the extent permitted by law, *Synergy* will not be liable to the *customer* for any consequential or indirect loss or for any business interruption loss, lost profits, loss of an opportunity or the *customer's* liability to third parties under a contract or

otherwise arising from, or in connection with, a breach of this *contract* by or negligence of *Synergy*.

- 11.5 Subject to clauses 11.3 and 12, the *customer* is liable for, and must indemnify *Synergy* against any loss or damage caused by, consequent upon or arising out of or in connection with any intentional, reckless or negligent acts and omissions of the *customer* including, but not limited to:
- 11.5.1 a breach of any term of this *contract* by the *customer*; or
- 11.5.2 a breach of the *technical rules* by the *customer*.

12. Application of legislation

Nothing contained in this *contract*:

- 12.1 excludes, restricts or prejudices in any way any of *Synergy's* rights or remedies under any Act or regulations (including, but not limited to, the Energy Operators (Powers) Act 1979 (WA), the EC Act, EI Act, and the Electricity Industry Metering Code 2005 (WA)); or
- 12.2 excludes, restricts or modifies any obligations of a party under any Act or regulations to the extent that the party is prohibited by law from excluding, restricting or modifying them.

13. Goods and services tax (GST); other taxes

Definitions

- 13.1 Unless otherwise defined in this clause 13 or in the "Definitions" section of this *contract*, terms defined in the *GST Act* have the same meaning when used in this clause.

GST exclusive amounts

- 13.2 Unless otherwise stated, all amounts payable or the value of other consideration provided in respect of the supplies made under this *contract* are exclusive of GST.

GST gross up

- 13.3 If there is a taxable supply under or in connection with this *contract*, then the recipient must pay to the supplier an amount equal to the GST payable on the taxable supply in addition to the payment for the taxable supply required to be made under this *contract*.

Tax invoice

- 13.4 Subject to clause 13.7, a party need not make a payment for a taxable supply made under this contract until it receives a tax invoice for the supply to which the payment relates.

Reimbursements

- 13.5 If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with clause 13.3.

Adjustments

- 13.6 If a party becomes aware of an adjustment event, that party agrees to notify the other party as soon as practicable after becoming so aware, and the parties agree to take whatever steps are necessary, including the issue of an adjustment note, and to make whatever adjustments are required, to ensure that any GST or additional GST on that supply or any refund of any GST (or part thereof) is paid as soon as is practicable but no later than 14 days after the supplier (that is, the party who made a supply for the purposes of the *GST Act*) has satisfied itself that the adjustment event has occurred.

Recipient created tax invoices

- 13.7 If a *customer* is a *non-residential customer* who is registered for *GST*, the *customer* and *Synergy* agree that:
- 13.7.1 *Synergy* will issue a recipient created tax invoice in respect of the amount payable by *Synergy* to the *non-residential customer* for the purchase by *Synergy* of *renewable energy exported* from the *system*;
- 13.7.2 the *non-residential customer* will not issue tax invoices to *Synergy* in respect of any supply of *renewable energy exported* under or in connection with this *contract*;
- 13.7.3 *Synergy* will issue the *non-residential customer* an adjustment note for any adjustment event in accordance with clause 13.6;
- 13.7.4 the *non-residential customer* acknowledges that it is registered for *GST* and that it will immediately notify *Synergy* in writing if it ceases to be registered;
- 13.7.5 *Synergy* acknowledges that it is registered for *GST* and that it will immediately notify the *non-residential customer* in writing if it ceases to be registered; and
- 13.7.6 if either *Synergy* or the *non-residential customer* cease to be registered for *GST*, clause 13.7 will cease to apply to *Synergy* and the *non-residential customer* as and from the date the party notifies the other of its changed *GST* status.
- 13.8 The *customer* will be solely liable for payment of all taxes (including but not limited to corporate taxes, personal income tax, fringe benefits tax, payroll tax, stamp duty,

withholding tax, PAYG, turnover tax and excise and import duties, and any subcontractor's taxes) which may be imposed in relation to *renewable energy exported*, the *system* or payments made under the *contract*.

14. Miscellaneous

- 14.1 If the whole or part of any of this *contract* (a "provision") is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of the *contract* has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this *contract* or is contrary to public policy. The parties acknowledge and agree that:
- 14.1.1 clause 15 is central to the basic nature of this *contract* as a contract giving effect to Government policy, which policy is subject to change in a manner that would otherwise adversely impact *Synergy* if this *contract* was not amended to reflect the change in policy;
- 14.1.2 severance of any part of clause 15 alters the basic nature of this *contract*; and
- 14.1.3 if any part of clause 15 is void, unenforceable or illegal in any jurisdiction, this *contract* is terminated.
- 14.2 This *contract* is governed by the law in force in Western Australia from time to time, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia.
- 14.3 This *contract* constitutes the entire agreement between the parties about its subject matter and any previous agreements, understandings and negotiations on that subject matter cease to have any effect.
- 14.4 The rights, powers and remedies provided in this *contract* are cumulative with and not exclusive of the rights, powers, or remedies provided by law independently of this *contract*.
- 14.5 Subject to clause 15, no amendment or waiver of any of this *contract* shall be valid or effective unless made in writing and duly executed by all parties, in the case of an amendment, or by the party giving the waiver.
- 14.6 The failure of any party to enforce at any time any provision of this *contract* or to exercise any right, power or remedy provided by this *contract* shall in no way be construed to be a waiver of such provision nor in any way to affect the validity of this *contract* or any part thereof or the right of any party to enforce thereafter each and every term of this *contract* and to exercise any such right. No waiver of any breach of a provision of this *contract* shall be held to be a waiver of any other or subsequent breach.

- 14.7 A reference to legislation means includes that legislation as amended or replaced from time to time.
- 14.8 Section 61 of the Interpretation Act 1984 (WA) applies to the counting of time in clauses 3.2(b) and (c).
- 14.9 Except as provided in clause 14.8, if a period of time dates from a day, the period of time is calculated exclusive of that day and inclusive of the last day of that period of time.

15. Amendments

- 15.1 The *customer* and *Synergy* agree that these “Renewable Energy Buyback Scheme Terms and Conditions for Purchase of Renewable Source Electricity” (including any prices contained therein) can change in accordance with this clause 15 as required or directed by the *Minister* in a *Ministerial Direction* or a *Minister required amendment*.
- 15.2 In the event that any changes to these “Renewable Energy Buyback Scheme Terms and Conditions for Purchase of Renewable Source Electricity” are required or directed by the *Minister* in a *Ministerial Direction* or a *Minister required amendment*, then *Synergy* will notify the *customer* of such change and, subject to clause 15.3, the *contract* is amended to reflect that change on and from the date that the change is notified to the *customer*.
- 15.3 Clause 15.2 has no force or effect to the extent that any amendment to this contract arising from the *Ministerial Direction* or the *Minister required amendment* (as relevant) results in this contract providing for *Synergy* to purchase *renewable source electricity* on terms and conditions that are not fair and reasonable.
- 15.4 Without limiting the generality of clause 9.1, if the *customer* does not agree with any amendment to this *contract* made under this clause 15, the *customer* may terminate this *contract* in accordance with clause 9.1.

16. Adjustments for a change in law and network access costs

- 16.1 If a change in law occurs, *Synergy* may adjust the charge applicable under this *contract* to the extent necessary to place *Synergy* in the position it would have been under the *contract* if it had not been for the change in law.
- 16.2 Without limiting the generality of clause 16.1, if a change in network charges occurs, or a new network charge is imposed, *Synergy* may charge the *customer* an amount to the extent necessary to reflect that proportion of the effect of the new network charge or change in network charge which *Synergy* estimates in good faith is fairly attributable to or payable by the *customer*.
- 16.3 If the *customer* changes the amount or rate at which it exports electricity, *Synergy* may, subject to prior notice

to the *customer*, charge the *customer* an amount to the extent necessary to reflect that proportion of any increase in network charges which *Synergy* estimates in good faith is fairly attributable to the *customer*.

17. Net Feed-in Tariff terms and conditions

17.1 Recital

- (a) The *subsidy scheme* is a Western Australian government initiative and is subject to change from time to time.
- (b) The *subsidy rate* credited to a *qualified feed in tariff customer's bill* is separate and additional to the *Synergy REBS buyback rate*.
- (c) Unlike the *Synergy REBS buyback rate* which is the amount *Synergy* pays for electricity purchased from a *customer*, the *subsidy rate* is an amount credited on a *qualified feed in tariff customer's bill* by *Synergy*, on behalf of the state government to encourage *small renewable energy system* uptake. The *subsidy rate* is not used by *Synergy* to acquire energy – the *Synergy REBS buyback rate* is for that purpose.
- (d) The state government is responsible for funding the payment by *Synergy* of the *subsidy rate* and setting the *Subsidy scheme criteria* for determining whether a *customer* is a *qualified feed in tariff customer*. The state government is also solely responsible for determining the *subsidy rate* and the duration of the *subsidy scheme*. The state government may change the *Subsidy scheme criteria*, *subsidy rate* and *Net feed in tariff terms and conditions* at any time and therefore the *contract* will be subject to change from time to time and any such change may, without limitation, have retrospective effect.
- (e) The state government has requested *Synergy* to implement and administer the *subsidy scheme* in the *SWIS* on behalf of the state government. Accordingly, all functions carried out by *Synergy* in relation to the implementation or administration of the *subsidy scheme* are carried out by *Synergy* acting solely as agent for and on behalf of the Western Australian state government.
- (f) On 19 May 2011 the state government announced a reduction in the *subsidy rate* from 40c/kWh to 20c/kWh for new *qualified feed in tariff customers* who applied for the *feed in tariff* after 30 June 2011 and introduced a *subsidy scheme* installed capacity limit of 150MW.

- (g) On 1 August 2011 the state government announced:
 - (i) the *subsidy scheme* installed capacity limit of 150MW had been reached.
 - (ii) no new *feed in tariff applications* would be accepted beyond the *subsidy scheme suspension* unless the *customer* is a *committed customer*.
 - (iii) existing *qualified feed in tariff customers* would not be affected by the *subsidy scheme* suspension and would continue to receive the *subsidy rate* for the duration of their 10 year payment period.
- (h) The state government has instructed Synergy to cease approving *feed in tariff applications* unless instructed in writing by the state government to do so.

17.2 Synergy right to discontinue and amend

- (a) In the event the state government withdraws or amends the *subsidy scheme* Synergy may:
 - (i) amend the *subsidy rate*, *Subsidy scheme criteria* and/or *Net feed in tariff terms and conditions*; or
 - (ii) cease crediting of the *subsidy rate* to the customer.
- (b) In the event paragraph (a)(ii) applies these *Net feed in tariff terms and conditions* cease to apply.
- (c) In the event paragraph (a) or (b) applies, Synergy shall have no liability for any loss (either direct or indirect), and even if Synergy was aware of the possibility of the *qualified feed in tariff customer* suffering that loss.

17.3 Subsidy scheme duration

17.3.1

- (a) The maximum duration for payment of the *subsidy rate* to a *qualified feed in tariff customer* is 10 years calculated from the date of the commencement of the first *contract* applicable to the *premises* under which the *subsidy rate* is payable. For *qualified feed in tariff customer* with a *contract* that started prior to 1 August 2010, the *subsidy duration* starts on 1 August 2010.
- (b) Unless the state government advises Synergy otherwise in writing, a *qualified feed in tariff customer* cannot elect to suspend the payment duration of the *subsidy scheme* for any period under any circumstances.

17.3.2 With respect to a *valid feed in tariff application* received by Synergy during the period 19 May 2011 to 30 June 2011 and which is approved by Synergy as meeting the *Subsidy scheme criteria*, the date of commencement of the first *contract* applicable to the *premises* under which the *subsidy rate* is payable is as follows:

- (a) if the *meter* and *meter* related equipment is installed at the *premises* after the date of *system* installation, then the *contract* commencement date is the date of installation of the *meter* and *meter* related equipment; or
- (b) if the *meter* and *meter* related equipment is installed before the installation of the *system*, then subject to (c), below, the *contract* commencement date is the date of installation of the *meter* and *meter* related equipment; or
- (c) if the *meter* and *meter* related equipment is installed before the installation of the *system* and if at the time of *system* installation the *customer* informs Synergy prior to 1 November 2011 of the date of that *system* installation, then the *contract* commencement date is the date of *system* installation.

17.3.3 With respect to a *valid feed in tariff application* received by Synergy during the period from 1 July 2011 until on or before 5:00pm 14 October 2011 that is approved by Synergy as meeting the *Subsidy scheme criteria*, the date of commencement of the first *contract* applicable to the *premises* under which the *subsidy rate* is payable is the date of installation of the *meter* and *meter* related equipment.

17.3.4

- (a) Synergy will accept for assessment a *valid feed in tariff application* submitted after 5:00pm 14 October 2011 if instructed in writing by the state government to do so.
- (b) In the event Synergy receives a written instruction from the state government in accordance with paragraph (a) and approves that *valid feed in tariff application* as meeting the *Subsidy scheme criteria*, the date of commencement of the first *contract* applicable to the *premises* under which the *subsidy rate* is payable is the later of the date:
 - (i) on which the *valid feed in tariff application* is so approved by Synergy; or
 - (ii) following such approval by Synergy of a *valid feed in tariff application*, installation of the *meter* and *meter* related equipment.

17.3.5 If the *customer* is not the first *qualified feed in tariff customer* at the *premises* it acknowledges and agrees that it is not entitled to receive the *subsidy rate* for the full 10 year period specified in clause 17.3.1(a), but will receive it for the balance remaining of that 10 year period at the *premises*.

17.3.6 After 10 years the *subsidy rate* will cease. However, the *qualified feed in tariff customer* may continue to receive *REBS buyback rate*.

17.3.7 Subject to clause 7.3, 17.3.8 and 17.3.9 if a *qualified feed in tariff customer* expands its *small renewable energy system* capacity then the *subsidy rate* can be applied to the *renewable energy exported* from the expanded system provided the system following that expansion still constitutes a *small renewable energy system*. However, the 10 year duration still applies from the date of the original installation not 10 years from the date of the expansion.

17.3.8 A *qualified feed in tariff customer* must not after the *subsidy scheme suspension* expand its *small renewable energy system capacity* by increasing the size of the existing inverter, installing a new inverter or expanding inverter capacity by any other means unless approval has been granted in accordance with clause 7.3 prior to the *subsidy scheme suspension*.

17.3.9 A *qualified feed in tariff customer* must not after *subsidy scheme suspension*, increase the capacity of the system inverter. Increasing inverter capacity after the *subsidy scheme suspension* will result in the *qualified feed in tariff customer* being ineligible to continue to participate in the *subsidy scheme*.

17.3.10 A *qualified feed in tariff customer* who has been removed from the *subsidy scheme* in accordance with clause 17.3.9 will not have their eligibility for the *subsidy scheme* re-instated at the premises if they reduce the *small renewable energy system capacity* to or below the capacity originally approved by *Synergy* under the *subsidy scheme*.

17.4 Tampering

A *qualified feed in tariff customer* must not tamper with, bypass, circumvent, modify or otherwise interfere with the system or meter or do anything that produces and exports electricity in a way that was not intended by the system manufacturer or Western Power.

17.5 Notification of a change in a qualified feed in tariff customer's circumstance

Without prejudice to clause 7.3, a *qualified feed in tariff customer* must notify *Synergy* immediately of any change in circumstance whereby the *qualified feed in tariff customer* or the system no longer meets the *Subsidy scheme criteria*.

17.6 Compliance with Net feed in tariff terms and conditions

A *qualified feed in tariff customer* is responsible for ensuring compliance with these terms and conditions.

Subsidy scheme criteria – Schedule 1

Customer eligibility

1. The *subsidy scheme* only applies to a *residential customer*.
 2. A *customer* must be a *residential customer* at the *premises* from which the *qualified feed in tariff customer* wishes to receive the *subsidy rate*.
 3. A *residential customer* must generate and sell electricity to *Synergy* under a Renewable Energy Buyback Scheme contract.
 4. A *residential customer* must occupy the *premises* in which a system has been installed.
 5. A *residential customer* can receive the *subsidy rate* at only one residential premises at a time.
 6. A *residential customer* must own the system located at the premises.
 7. A *residential customer* must have submitted a *valid feed in tariff application*:
 - 7.1 by the *subsidy scheme suspension*, which is approved by *Synergy* as meeting the *Subsidy scheme criteria*; or
 - 7.2 if the customer is a *committed customer*, by 5:00 pm western standard time on 14 October 2011, which is approved by *Synergy* as meeting the *Subsidy scheme criteria*; or
 - 7.3 by any other date the state government in its discretion allows and instructs *Synergy* in writing to accept for assessment in respect of any particular *valid feed in tariff application*, which is subsequently approved by *Synergy* as meeting the *Subsidy scheme criteria*.
- Note:** a *residential customer* who occupies a premises may be a different person to the *residential customer* who owns the system (e.g. rental situations).
8. A *residential customer* who submits a *feed in tariff application* for a premises after *subsidy scheme suspension* is not eligible to participate in the *subsidy scheme* unless there was a *qualified feed-in tariff customer* for those premises immediately prior to the *residential customer* submitting its *feed in tariff application* relating to those premises. In the event the *feed in tariff application* is approved by *Synergy* the *subsidy rate* will be only payable for the balance remaining of the 10 year period specified in clause 17.3.1(a).

System eligibility

9. The *subsidy scheme* only applies to a *small renewable energy system* which utilises photovoltaic, wind turbine or hydro power *system* technologies.
10. The *system* and necessary metering equipment must have been installed at a *residential customer's premises* and be ready to import and export electricity to and from the *Western Power network*.
11. Subject to clauses 7.3, 17.3.7, 17.3.8 and 17.3.9 *system* expansion at a *residential customer's premises* is permitted provided the *system* following that expansion still constitutes a *small renewable energy system*.

Note: it is very important that *customers* read clauses 7.3, 17.3.7, 17.3.8 and 17.3.9 before making any decision concerning expansion of their *small renewable energy system*.

12. The *system* must be new at the time of installation. Second hand *systems* (either in whole or in part) do not qualify for the *subsidy scheme*.
13. A *residential customer* who relocates their *small renewable energy system* to a place or premises other than the *premises* is not eligible to participate in the *subsidy scheme* at that other place or premises using that *small renewable energy system*.
14. A *residential customer* must own the *system* located at the *premises*.
15. The *system* must be designed and installed by a Clean Energy Council accredited designer and installer on and from 1 August 2010.

Applicable subsidy rate

16. The *subsidy rate* applicable to a *qualified net feed in tariff customer* is specified within the *REBS and Net feed in tariff price schedule*.

synergy.net.au/REBS