

Encore Orchestration Contract

Key Details

Note to customer: After you accept the Encore offer, Synergy will populate the grey highlighted details in this Key Details section with the information that appears in the Encore participation offer, and Synergy will provide you with a copy of the completed Key Details (and the terms and conditions that follow).

In this Contract, capitalised words have the meanings given in clause 21 of the Terms and Conditions.

1.	Customer Name (You)	[Your name will appear here]
2.	Your contact details	[Your contact details as showing on the Encore Participation Offer will appear here]
3.	Premises (Your home)	[Your home residence address as showing on the Encore Participation Offer will appear here]
4.	Electricity account holder at Premises	[The name/s of the account holder for the Premises will appear here]
5.	Term	Contract Start Date: Later of 1 October 2023 and the date You enter into this contract Contract End Date: 30 June 2024, unless Your participation ends earlier under the Contract or there is an Extension
6.	Extension	If We give You notice that We will continue to Orchestrate Your Assets after the Contract End Date, the Term will be extended on a month-by-month basis until You tell Us You want to end, or We end, Your participation in Encore.
7.	Payment Period	Contract Start Date to Payment End Date (inclusive).
8.	Your Assets	Your assets participating in Encore are: [The assets showing on the Encore Participation Offer page will appear here – e.g., solar PV system / solar PV system and battery / hot water system etc]
9.	Our Equipment	Our equipment at Your Premises, being: [The Gateway Device showing on the Encore Participation Offer and other of our orchestration equipment will appear here]
10.	Incentive Payment	The applicable payment will be paid pro-rata, by way of credit, to Your electricity account during the Payment Period. Every 2 months We will credit Your account with the applicable daily amount of the Incentive Payment multiplied by the number of days in the billing period. The credit will be applied with effect from the Contract Start Date.

		<p>The Incentive Payment is to recognise Your participation in Encore.</p> <table border="1"> <thead> <tr> <th>Your Asset</th> <th>Total Incentive Payment (GST exclusive) based on a Contract Start Date of 1 October 2023*</th> </tr> </thead> <tbody> <tr> <td>Solar PV system</td> <td>\$150.00</td> </tr> <tr> <td>Battery</td> <td>\$200.00</td> </tr> <tr> <td>Air conditioning system</td> <td>\$150.00</td> </tr> <tr> <td>Hot water system</td> <td>\$100.00</td> </tr> </tbody> </table> <p>*If the Contract Start Date is later than 1 October 2023, the total Incentive Payment You receive will be less than the amount set out above. This is because the amount is pro-rated for the number of days in the period from You entering into the Contract to 30 June 2024.</p>	Your Asset	Total Incentive Payment (GST exclusive) based on a Contract Start Date of 1 October 2023*	Solar PV system	\$150.00	Battery	\$200.00	Air conditioning system	\$150.00	Hot water system	\$100.00
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11.	Orchestration Payment (if applicable)	<p>The applicable payment will be credited to Your electricity account during the Payment Period. Every 2 months We will credit Your account with the total of the daily amount multiplied by the number of days in the billing period. The credit will be applied with effect from the Contract Start Date.</p> <p>The Orchestration Payment is to help offset any changes You participating in Encore might have on Your electricity account.</p> <table border="1"> <thead> <tr> <th>Your Asset</th> <th>Daily Orchestration Payment (GST exclusive)</th> </tr> </thead> <tbody> <tr> <td>Solar PV system without battery</td> <td>\$1.00 per day</td> </tr> <tr> <td>Solar PV system with battery</td> <td>\$2.00 per day</td> </tr> </tbody> </table>	Your Asset	Daily Orchestration Payment (GST exclusive)	Solar PV system without battery	\$1.00 per day	Solar PV system with battery	\$2.00 per day				
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12.	Changes in Incentive Payments and Orchestration Payments during Payment Period	<p>If We change the mix of Your Assets during the Payment Period, or if Your Asset/s is not functioning as it should, We may not pay You the Incentive Payment or Orchestration Payment – see clauses 8.1 and 8.2.</p> <p>We may also change the Orchestration Payment during the Payment Period (but if so, only to increase it) – see clause 8.2.</p>										
13.	Data consents	You consent to Us using and disclosing Your Data for the purposes and to the persons as set out in clause 14 and in Your Verifiable Consent Form at										

		<p>the end of this Contract, and if You download and use the Encore App by Synergy, in accordance with clause 7.</p> <p>Note: The Data We will use and disclose is Data We collect during Encore or any related or similar DER trial or pilot, or Data that We previously collected from You under Project Symphony.</p>
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Terms and Conditions

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1. This Contract

- (a) This Contract sets out the terms on which You will participate in Encore. It also explains how We will Orchestrate Your Assets to operate the Virtual Power Plant. If You agree, We can change these terms, as set out in clause 15.
- (b) In exchange for You participating in Encore, during the Payment Period We will pay You:
 - (i) the applicable Incentive Payments (see item 10 in the Key Details); and
 - (ii) if Your Assets are eligible, the applicable Orchestration Payment (see item 11 in the Key Details).

2. Term

- (a) This Contract remains in force for the Term.
- (b) If We give You notice that We will continue to Orchestrate Your Assets after the Contract End Date, the Term will be extended on a month-by-month basis (**Extension**) until:
 - (i) You tell Us that You want to opt out of Encore (see clause 17.2(b));
 - (ii) We end Your participation in Encore (see clause 17.1).
- (c) We may change the terms of this Contract with Your agreement (see clause 15).

3. Orchestration to participate in Virtual Power Plant

- (a) You acknowledge and agree that We will Orchestrate Your Assets as a part of the Virtual Power Plant in accordance with this Contract.
- (b) Our Orchestration will involve testing the integration of Your Assets as a part of the Virtual Power Plant and the ability of Your Assets to be called upon when required by the Virtual Power Plant to provide Network stability. For example, We can do this by:
 - (i) exporting electricity from any solar PV system forming part of Your Assets;
 - (ii) importing into the Network electricity from any solar PV system forming part of Your Assets;
 - (iii) storing electricity in any battery forming part of Your Assets;
 - (iv) discharging to the Network electricity stored in any battery forming part of Your Assets;
 - (v) adjusting the settings of Your Assets.

4. Our access to the Premises for Orchestration

- (a) During the Term You must:
 - (i) grant Us all rights and permissions that We need to physically and remotely:
 - (A) inspect, access and Orchestrate Your Assets, including to check for any connectivity issues between Your Assets and Our Equipment;
 - (B) audit the maintenance, service and repair records of Your Assets; and
 - (C) inspect, service and maintain Our Equipment, and audit Our Equipment.
 - (ii) allow Us to obtain and read Data from Your Assets via Our Equipment and the Virtual Power Plant;

- (iii) at all reasonable times during business hours, give Us safe and unrestricted physical access to the Premises and to Your Assets for the purposes set out in clauses 4(a)(i) and 4(a)(ii);
 - (iv) be present at the Premises at the times and dates access is required in the circumstances in clause 4(a)(iii). We will agree and arrange these times and dates with You;
 - (v) not do, or allow anything to be done that would interfere with Our use of, access to, or Orchestration of, Your Assets; and
 - (vi) not, or not allow anything to be done, that would interfere with Our ability to obtain Data from Your Assets.
- (b) You acknowledge and agree that We:
- (i) may need to temporarily switch the electricity off at the Premises when We access Your Assets or Our Equipment; and
 - (ii) will not be liable to You for any Loss You may suffer as a result of switching off the electricity.

5. Our rights to change the mix of Your Assets participating in Encore

- (a) The Key Details list Your Assets that are participating in Encore and that We will Orchestrate.
- (b) You agree that We can, at Our discretion, temporarily or permanently change the mix of Your Assets participating in Encore. For example, We may decide to exclude Your solar PV system from Your Assets. We can change the mix of Your Assets more than once.
- (c) If We change the mix of Your Assets, We will give You prior notice of the change and of how this will affect the Incentive Payment and any Orchestration Payment. Your Assets in the Key Details will be deemed to be amended to reflect the change on and from the date of Our notice.
- (d) Unless We agree otherwise, You cannot change the mix of Your Assets. If We allow You to change the mix of Your Assets, Your Assets in the Key Details will be deemed to be amended to reflect the change on and from the date of Our notice.

6. Your obligations

- (a) You must:
 - (i) at Your cost, maintain Your Assets in a safe and proper working order. This includes You operating, servicing and repairing Your Assets in accordance with all Manufacturer's Instructions;
 - (ii) at Your cost, maintain home and contents insurance for the Premises covering Your Assets. If We ask You, You must provide Us with a copy of documents showing that Your insurance is current and covers Your Assets;
 - (iii) allow Us to access, use and disclose the Data from Your Assets for the purposes set out in clause 14 and in Your Verifiable Consent Form;
 - (iv) at all times, maintain a continuous internet connection (ideally via an ethernet connection) at the Premises;
 - (v) if We ask You to, keep a spare ethernet port on Your internet router. This is to allow Us to transfer Data from Your Assets to Our Equipment;

- (vi) immediately notify Us if You or a person residing at the Premises is using, or will start using, Life Support Equipment. The use of Life Support Equipment may require Us to end Your participation in Encore in accordance with clause 17.1(f);
- (vii) keep this Contract confidential and not disclose the terms to any person without Our prior written consent;
- (viii) provide Us with any information We reasonably need to perform Our obligations under this Contract.

7. Download of Encore App

This clause 7 only applies if You choose to use the Encore App by Synergy.

- (a) So that You can monitor Your Assets and see Data at Your Premises as a part of Encore, We may invite You to download an app on to Your mobile device (the **Encore App by Synergy**).
- (b) Downloading and using the Encore App by Synergy is Your choice. If You choose to download and use the Encore App by Synergy, as well as any terms and conditions You accept when You download the Encore App by Synergy, the terms in this clause 7 will also apply.
- (c) If You choose to use the Encore App by Synergy, You must accept any reasonable terms and conditions for the use of the Encore App by Synergy.
- (d) You can choose to stop using the Encore App by Synergy at any time. We can also stop offering the Encore App by Synergy at any time, and if We do so, We will give You notice of this and You will lose access to the Encore App by Synergy.
- (e) The Encore App by Synergy is free to download, but You may incur mobile usage charges and We are not responsible for those charges.
- (f) You acknowledge and agree that if You download and use the Encore App by Synergy, You will be sharing Data from Your Assets with the Encore App by Synergy.
- (g) Without limiting the consents You give in clause 7(g), We will hold and deal with all information You give Us via the Encore App by Synergy in accordance with Our Privacy Policy.
- (h) If You need support with the Encore App by Synergy, please email Us at encore@synergy.net.au and We will endeavour to respond within 24 Business Hours.
- (i) We do not make any representation, guarantee or warranty related to the availability, reliability, accuracy, functionality, currency or completeness of the Encore App by Synergy or the content in the Encore App by Synergy, including the Data.
- (j) You acknowledge and agree that the content in the Encore App by Synergy does not reflect what We will bill You for Your electricity consumption. If You rely on the Encore App by Synergy or the Data in the Encore App by Synergy for any reason, You do so at Your own risk.
- (k) Subject to Our Privacy Policy but otherwise to the extent permitted by law, We are not liable for any Loss You incur or suffer arising directly or indirectly from:
 - (i) Your agreement to any terms and conditions of the Encore App by Synergy;
 - (ii) You downloading or using the Encore App by Synergy, or any software upgrades initiated by the Encore App by Synergy (including any viruses that may transmit);
 - (iii) the use or protection of Your Data (including Data security) by or in connection with the Encore App by Synergy.

- (l) If You stop participating in Encore for any reason, You will lose access to the Encore App by Synergy.

8. Our payments to You during the Payment Period

8.1 Incentive Payment

- (a) Subject to clauses 8.1(b) and 8.1(c), We will pay to You the Incentive Payment for each of Your Assets at Your Premises during the Payment Period (see item 10 of the Key Details). The Incentive Payment will be a credit to Your electricity account for the Premises. Every 2 months We will credit Your electricity account with the applicable daily amount of the Incentive Payment amount multiplied by the number of days in the billing period. The credit will be applied with effect from the Contract Start Date.
- (b) If We change the mix of Your Assets, or allow You to do so, under clause 5, Your Incentive Payment may change. We will notify You how Your Incentive Payment will change.
- (c) If We determine (acting reasonably) that one or more of Your Assets are not functioning as it should and is adversely impacting Encore or the operation of the Virtual Power Plant, We will notify You and We may stop paying You the Incentive Payment for Your Asset/s until such time as You have rectified the issue. This clause does not limit Our termination rights under clause 17.1(a)(i).

8.2 Orchestration Payment

- (a) Subject to clauses 8.2(b), 8.2(c) and 8.2(d), We will pay to You the Orchestration Payment that applies to Your Assets during the Payment Period (see item 11 of the Key Details). The Orchestration Payment will be a credit to Your electricity account for the Premises. Every 2 months We will credit Your electricity account with the daily Orchestration Payment amount multiplied by the number of days in the billing period. The credit will be applied with effect from the Contract Start Date.
- (b) If We Change the mix of Your Assets, or allow You to do so, under clause 5, the Orchestration Payment may change. We will notify You of how the Orchestration Payment will change.
- (c) We may review and update the amount of the Orchestration Payment. We will notify You of any updated amount of the Orchestration Payment and the date the updated amount takes effect.
- (d) If We determine (acting reasonably) that one or more of Your Assets are not functioning as it should and is adversely impacting Encore or the operation of the Virtual Power Plant, We will notify You and We may stop paying You the Orchestration Payment for Your Asset/s until such time as You have rectified the issue. This clause does not limit Our termination rights under clause 17.1(a)(i).

9. Ownership and risk

9.1 Ownership and risk

- (a) You acknowledge and agree that at all times You own, and bear the risk in, Your Assets.
- (b) You acknowledge and agree that at all times We own, and bear the risk in, Our Equipment. If We gift Our Equipment to You under clause 18(a), then ownership and risk will pass to You.

9.2 Your use of Your Assets and Our Equipment

- (a) You must not, and must not allow any other person other than Us to:
 - (i) use, access, operate or control, Our Equipment; or

- (ii) tamper with, modify, bypass, damage, disable or otherwise interfere with Your Assets or Our Equipment. This includes disconnecting Your internet connection; or
 - (iii) remove Your Assets from the Premises without Our prior written consent. This also includes dealing, selling, hiring, transferring, gifting or otherwise giving up Your possession of Your Assets; or
 - (iv) attempt to sell, hire or deal with, or remove Our Equipment from the Premises.
- (b) You must not disconnect Your Assets from Our Equipment. You must ensure that Your Assets and the Gateway Device are always connected to the internet.
 - (c) You must not install (or permit the installation of) any DER asset at Your Premises without Our prior written consent (not to be unreasonably withheld). For example, We will consent to You installing a DER asset if that asset will not (in Our reasonable opinion) interfere with the Virtual Power Plant or Our running of Encore. To be clear, any DER asset You install at the Premises will not participate in the Virtual Power Plant under this Contract.
 - (d) Subject to Our rights to Orchestrate Your Assets under this Contract, You may use Your Assets. Using involves, for example, turning Your air conditioning system or Your hot water system on or off.
 - (e) If You have a battery as one of Your Assets, We may withdraw the electricity stored in the battery for the purposes of the Virtual Power Plant. If We do not withdraw the electricity stored in the battery then You can use all electricity stored in the battery.

10. Changes in Your electricity consumption and outcomes from Your participation in Encore

- (a) You may use more or less electricity than You would if You were not participating in Encore. You acknowledge and agree that:
 - (i) the way We Orchestrate Your Assets may not reduce the amount of electricity You use. This may be because We export or discharge electricity into the Network; and
 - (ii) We do not represent or guarantee that Your participation in Encore will achieve You an energy efficiency or a cost saving.

11. Emergency Solar Management

Emergency Solar Management may apply to Your Assets. Any signal to remotely turn off (and on again) Your Assets for Emergency Solar Management is not a part of Us Orchestrating Your Assets.

12. Your warranties

You warrant to Us that:

- (a) You own the Premises. If there is another owner of the Premises, then that owner allows You to enter into this Contract on their behalf;
- (b) the electricity supply account for the Premises is in Your name (or jointly in Your name and another person's name, and that other person has given You authority to enter into this Contract on their behalf);
- (c) Your Assets (other than those the Supplier installed under Project Symphony) are electrically sound and have been installed in accordance with applicable electrical requirements, Standards and safety requirements;
- (d) You have operated, maintained and serviced Your Assets in accordance with all Manufacturer's Instructions;
- (e) You own Your Assets and Your Assets are not subject to any encumbrances, such as a security interest;

- (f) any information You have provided Us in connection with this Contract is true and correct;
- (g) You will comply with all applicable laws in relation to Your use of Your Assets and Your performance of this Contract.

13. Our warranties

- (a) We warrant to You that We will use and otherwise deal with Your Data, including Personal Information, in accordance with:
 - (i) this Contract;
 - (ii) all applicable laws; and
 - (iii) to the extent applicable, Our Privacy Policy.
- (b) We will keep Your Data, including Your Personal Information, confidential.

14. Data

14.1 Our collection of Data

- (a) We will collect Data from the following sources:
 - (i) Your Metering Point;
 - (ii) Your Assets, including via Our Equipment and the Virtual Power Plant;
 - (iii) You, from information You provide Us on entering into this Contract, or that You provide Us (for example, via feedback to Us),

whether We collect the Data during Encore or any related or similar DER trial or pilot, or We previously collected it under Project Symphony.
- (b) We will collect, store and use the Data in both identifiable and anonymous forms. In an identifiable form, the Data will show details such as Your name, Your Premises, Your National Meter Identifier and Your specific energy consumption information.

14.2 Consent to use and disclosure of Data

- (a) Subject to clause 14.3, You agree and consent to Us using and disclosing the Data, whether in an identifiable or anonymous form, for the following purposes at any time during or after the Term:
 - (i) performing this Contract, including Orchestration of Your Assets and operation of the Virtual Power Plant;
 - (ii) carrying out Encore and Encore related learning;
 - (iii) Our DER aggregation and orchestration purposes outside Encore and after the end of the Term, including for example:
 - (A) to inform the development of Our service and product offering for DER projects more broadly;
 - (B) to allow Us to carry out the actions assigned to Us under the DER Roadmap, or for the objectives of the DER Roadmap;
 - (iv) Our testing and understanding of DER integration in the Network;

- (v) assessing the technical viability of DER to provide services to the Network and to the Wholesale Electricity Market, as well as to assist to develop commercial DER products;
 - (vi) disclosing the Data to respond to a legal request from any other government body or regulatory authority. This may be specifically in relation to Encore or this Contract or because We hold the Data;
 - (vii) disclosing the Data to the original equipment manufacturers of Our Equipment for troubleshooting or related purposes;
 - (viii) Us disclosing the Data to Western Power and AEMO for:
 - (A) Western Power and AEMO to use the Data for the same purpose We can in clauses 14.2(a)(ii), 14.2(iv), 14.2(a)(v) and 14.2(a)(vi); and
 - (B) Western Power and AEMO to use the Data for the objectives of the DER Roadmap.
 - (ix) if applicable, clause 7 and the Encore App by Synergy.
- (b) In this clause 14.2, where We disclose the Data to one of Western Power or AEMO but not the other, You give that party We have disclosed the Data to (for example, Western Power), consent to make that Data available to the other party (for example, AEMO), but only for the purposes listed in clause 14.2(a).
 - (c) If We need to use or disclose the Data for any other purpose not listed in clause 14.2(a) other than as required by law, We will seek Your consent.

14.3 Express consent to use and disclosure of Your identifiable Metering Data

- (a) By signing this Contract and the Verifiable Consent Form attached to the end of this Contract, You are expressly consenting to the use and disclosure of Your identifiable, non-anonymised Metering Data to the specified persons and for the specified purposes in the Verifiable Consent Form.
- (b) We will notify You if We need to update Your express consent to the use and disclosure of Your identifiable Metering Data.

14.4 Storage and use of Data

We will store and use all Data obtained under this Contract in accordance with clause 13 and in accordance with Your Verifiable Consent Form.

14.5 Data input into Virtual Power Plant platform

You acknowledge that the Data will be input into the platform software of the Virtual Power Plant in a non-anonymised form. The platform software is owned by a third-party provider(s).

14.6 Limited Data access by Our Subcontractors

You acknowledge and agree that Our Subcontractors (including the developer of the Encore by Synergy App) might have limited access to Your Data for required purposes only.

15. Amending this Contract

- (a) We can propose additional or amended terms if needed for or in connection with Our Orchestration of Your Assets (**Amended Terms**).
- (b) If we propose Amended Terms, We will ask You to agree to the Amended Terms.

- (c) If You agree to the Amended Terms, We will amend the Contract to include the Amended Terms.
- (d) The amended Contract will then govern Your continued participation in Encore.
- (e) If You do not agree to the Amended Terms, You will stop participating in Encore and this Contract will terminate.

16. Liability

- (a) Nothing in this Contract excludes, restricts or modifies Your Protected Rights.
- (b) Subject to clauses 16(c) and 16(e), We are liable to You for any Loss or Claim You suffer arising from or in connection with Our negligent act or omission in respect of Our Equipment.
- (c) Our liability in clause 16(b) will be reduced to the extent that the Loss is caused, or contributed to, by Your:
 - (i) negligence, fraud, theft or other wrongful act or omission;
 - (ii) negligent use of Your Assets;
 - (iii) use of Your Assets other than strictly in accordance with the Manufacturers' Instructions;
 - (iv) any failure by You to comply with this Contract (including, a breach of any of Your warranties).
- (d) Subject to clause 16(e), You are liable to Us in respect of any Loss or Claim made against Us arising from or in connection with Your:
 - (i) negligent use of Your Assets;
 - (ii) use of Your Assets other than strictly in accordance with Manufacturers' Instructions;
 - (iii) use of Your Assets or Our Equipment in breach of clauses 4(a)(i), 4(a)(ii), 4(a)(v) or 9.2(a).
- (e) Neither Party is liable to the other for Consequential Loss under this Contract. The Parties release each other from all Claims for Consequential Loss arising under, or related to, this Contract.
- (f) We are not liable for any Loss or Claim You suffer arising directly or indirectly from any damage caused to Your Assets or inability to use Your Assets as a result of hardware or software upgrades initiated by any manufacturer or software provider or by the Encore App.
- (g) If You have a battery as one of Your Assets, You acknowledge and agree that:
 - (i) We subsidised Your battery in Project Symphony; and
 - (ii) Our Orchestration of the battery may have an impact on the lifespan of the battery, but that We are not responsible to You for any such impact on the lifespan.
- (h) You acknowledge and agree that if You do not get or maintain home and contents insurance in accordance with clause 6(a)(ii) and Your Assets are damaged by an event ordinarily covered by home and contents insurance, You will need to pay for the costs of the damage.

17. Ending Your participation in Encore and this Contract

17.1 When We can end Your participation in Encore

We can end Your participation in Encore and this Contract will terminate with immediate effect by written notice to You if:

- (a) You commit a material breach of this Contract and You are not promptly willing or able to remedy the breach. Without limiting what other breaches may be material, the Parties agree that the following are material:
 - (i) if one or more of Your Assets are not connected to the internet or properly functioning and You do not rectify the connectivity or functionality issue within 24 hours after We notify You of the issue;
 - (ii) a breach of any of Your obligations under clause 6;
 - (iii) if You commit a fraudulent or negligent act in relation to this Contract.
- (b) We determine, in Our absolute discretion, that there is a, or there is a potential, safety issue with one or more of Your Assets or Our Orchestration itself;
- (c) You notify Us, or We become aware, that You will or have already sold, leased or sublet the Premises or if You cease occupying the Premises;
- (d) You become Insolvent;
- (e) Your Electricity Supply Agreement with Us ends;
- (f) You notify Us, or We become aware, that You or someone residing at Your Premises is using, or will start using, Life Support Equipment, and We consider there are risks to You (or someone residing at Your Premises) in Us continuing the Orchestration; or
- (g) for any reason We decide to end Encore.

17.2 When You can end Your participation in Encore

- (a) You can end Your participation in Encore by written notice to Us if We commit a material breach of this Contract and We are not promptly willing or able to remedy the breach. In that case, this Contract will terminate immediately on notice.
- (b) You can otherwise choose to end Your participation in Encore at any time by giving Us 30 days' written notice and this Contract will terminate.

17.3 Consequences if this Contract terminates

If We or You end Your participation in Encore under clause 17.1 or 17.2:

- (a) We will apply the Incentive Payment and the Orchestration Payment (as applicable), pro-rata to the date of termination of this Contract; and
- (b) You agree that We are not liable to You for any costs savings or financial benefits You may have received if You had continued to participate in Encore to the end of the Term.

18. What happens to Our Equipment

At the end of the Contract, We may, in our discretion, either:

- (a) gift You Our Equipment – in which case, You will take all risk and responsibility in Our Equipment; or
- (b) remove Our Equipment from Your Premises.

If We decide to remove Our Equipment, We will contact You and let You know whether We or one of Our Subcontractors will remove Our Equipment from Your Premises.

19. Independent legal advice

You acknowledge and agree that You have been given the opportunity to get independent legal advice on the terms of this Contract before You signed this Contract.

20. General

- (a) Any terms You previously signed under Project Symphony are not voided by this Contract. Unless otherwise expressly amended by this Contract, nothing in this Contract limits or impacts any permissions, representations, warranties or indemnities You gave to Us under terms You signed for Project Symphony, including for matters not covered by this Contract (for example, in respect of the installation of DER assets).
- (b) This Contract is governed by the law in force in Western Australia.
- (c) A variation of any term of this Contract must be in writing and signed by the Parties.
- (d) Any invalid or unenforceable terms can be deleted from this Contract, without affecting the enforceability of the other terms of this Contract.
- (e) Any unenforced right under this Contract is not to be taken as a waiver of that right.
- (f) Clause 14, clause 16 and any other provision that is expressed to, or by its nature that is intended to, survive termination or expiry of this Contract, will survive the expiry or termination of this Contract.
- (g) Unless the context otherwise requires, a notification under this Contract must be in writing.
- (h) Each Party must bear its own legal and other costs and expenses arising directly or indirectly with respect to the preparation, execution, completion and performance of this Contract or any other related documentation.
- (i) Nothing in this Contract limits or excludes the rights, powers and remedies that We have at law (including but not limited to under the *Energy Operators (Powers) Act 1979 (WA)* and the *Electricity Corporations Act 2005 (WA)*) or in equity.
- (j) Nothing in this Contract limits or excludes rights, powers and remedies that We have under Your Electricity Supply Agreement.
- (k) A promise on the part of two or more persons binds them jointly and severally.
- (l) A reference to this Contract includes any Attachment to this Contract.
- (m) In this Contract, a reference to a statute, ordinance, code or other law includes regulations and other instructions under it and consolidations, amendments, re-enactments or replacements of any of them from time to time.

21. Definitions

The meanings of the terms used in this Contract are as follows:

AEMO means Australian Energy Market Operator Limited ACN 072 010 327, and includes AEMO's officers, employees, agents, contractors and subcontractors.

Amended Terms has the meaning given in clause 15(a).

Australian Consumer Law means Schedule 2 to the *Competition and Consumer Act 2010 (Cth)* as in force as a law of the Commonwealth under that Act, and as in force as a law of Western Australia under the *Fair Trading Act 2010 (Cth)*.

Business Hours means between the hours of 9:00am and 5:00pm AWST on a weekday (except a public holiday).

Claim means a claim, demand, action or proceeding of any nature whether actual or threatened arising out of, or in connection with, this Contract or otherwise arising in any way whatsoever.

Consequential Loss means all and any of the following (whether or not they are known to or contemplated by Us or You, or otherwise reasonably foreseeable, at any time):

- (a) business interruption loss;
- (b) lost profits;
- (c) loss of an opportunity;
- (d) Your liability to others under contracts, applicable laws or otherwise;
- (e) any loss to the extent it is caused by Your own negligence or other fault;
- (f) any loss to the extent it is caused by an event beyond Your or Our control;
- (g) any other indirect or consequential loss or damage however categorised, and whether arising from or in connection with or a Party's breach of contract, breach of statutory duty, tort (including negligence), in equity or otherwise.

Contract means this Encore Orchestration Contract, comprising the Key Details, the Terms and Conditions and the Verifiable Consent Form.

Contract End Date means the date specified as such in item 5 of the Key Details.

Contract Start Date means the date specified as such in item 5 of the Key Details.

Data means any or all of Metering Data, DER Data or Personal Information, and collected by Us as set out in clause 14.1.

DER means distributed energy resource. Examples include a solar PV system, a battery, a hot water system or an air conditioning system.

DER Data means other data that is collected by Us, that is not Metering Data, whether or not it is measuring and recording electricity production and consumption at the Metering Point. It includes, for example, telemetry data collected from Your Assets, and the product or brand specifications about Your Assets.

DER Roadmap means the road map developed by the Western Australian State Government to facilitate the integration of DER in the Wholesale Electricity Market and the South West Interconnected System (and available here: https://www.wa.gov.au/system/files/2020-04/DER_Roadmap.pdf).

Electricity Supply Agreement means the electricity supply agreement between You and Us for the supply of electricity at the Premises by Us to You.

Emergency Solar Management means the capability to remotely turn off (and on again) new and upgraded rooftop solar systems with an inverter capacity of 5kW or less.

Encore means the pilot by which We will continue exploring methods to maintain the Network's stability using DER, with the ultimate aim to gain deeper insights that facilitate the formation of viable DER commercial arrangements in the future.

Encore App by Synergy has the meaning given in clause 7(a).

Extension has the meaning given in clause 2(b).

Gateway Device means any device that enables Us to connect to, use, Orchestrate and monitor, Your Assets. The Gateway Device is the link between Your Assets and the Virtual Power Plant, and was installed at Your Premises during Project Symphony.

Incentive Payment means the applicable amount or amounts set out in item 10 of the Key Details.

Insolvent means if the Party is a natural person, the Party dies, commits an act of bankruptcy, or Party's estate comes within the operation of any law relating to insolvency or mental health.

Key Details means the key details set out in the table at the start of this Contract.

Loss means losses, liabilities, damages, costs, charges and expenses including but not limited to legal costs on a solicitor own client basis.

Life Support Equipment has the meaning given in the *Code of Conduct for the Supply of Small Use Customers 2022*.

[As at the date of this Agreement, the definition of Life Support Equipment in the *Code of Conduct for the Supply of Electricity to Small Use Customers 2022* is:

life support equipment means specified equipment under the Life Support Equipment Electricity Subsidy Scheme as administered by the department of the Public Service principally assisting in the administration of the taxation Administration Act 2003 immediately before 1 January 2023.]

Manufacturer's Instructions means the documentation provided by the manufacturer of Your Asset containing instructions regarding the proper use, maintenance, servicing and repair of Your Asset.

Meter means the equipment used to measure the volume of electricity production or consumption and includes a revenue meter (such as an AMI Meter) and an orchestration meter such as a site power meter and solar power meter (as applicable).

Metering Code means the *Electricity Industry (Metering) Code 2012 (WA)*.

Metering Data means data relating to electricity production or consumption at Your Metering Point and read from a revenue meter (such as an AMI Meter) and includes:

- (a) "standing data" (as that term is defined in the Metering Code, which, for example, may include the National Meter Identifier, the Meter type, and the address of Your Metering Point);
- (b) "energy data" (as that term is defined in the Metering Code, which is essentially the measurement of Your electricity production and consumption at the Metering Point, as measured by the revenue meter).

Metering Point has the meaning given to that term in the Metering Code.

[As at the date of this Agreement, the definition of Metering Point in the Metering Code is (relevantly):

"metering point" means:

- (a) for a *connection point* of Type 1 to Type 6—a point at which a *revenue meter* measures electricity production or consumption for the *connection point*; and
- (b) ...]

Network means the South West Interconnected System (as defined in the *Electricity Industry Act 2004 (WA)*).

Orchestrate means when We operate and connect Your Assets as a part of the Virtual Power Plant, and **Orchestrating** or **Orchestration** has a similar meaning. Orchestrate includes modifying the settings of Your Assets.

Orchestration Payment means the applicable amount set out in item 11 of the Key Details.

Our Equipment means the equipment set out in item 9 of the Key Details and includes the Gateway Device.

Party means either of You or Us, and **Parties** means both of You and Us.

Payment Period means that part of the Term during which We will pay You the Incentive Payment and Orchestration Payment, for the period set out in item 7 of the Key Details.

Payment End Date means 30 June 2024.

Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable.

Premises means Your home as set out in item 3 of the Key Details.

Privacy Policy means Our policy of that name and which is available on Our website (<https://www.synergy.net.au/privacy>).

Project Symphony means the project run by Us, Western Power, Australian Energy Market Operator and Energy Policy WA to trial the orchestration of DER, between July 2021 and October 2023, which You participated in.

Protected Rights means:

- (a) any rights of recovery or to compensation You may have under the Australian Consumer Law (including in relation to Consequential Loss);
- (b) any other rights of recovery or to compensation You may have under law;
- (c) any other condition, warranty or guarantee (including the application of any consumer guarantee under the Australian Consumer Law) where applicable,

if and to the extent that We are prohibited by law from excluding, restricting or modifying them.

Standards means any and all relevant Australian standards relating to the installation of Your Assets.

Subcontractor means one or more of Our contractors and subcontractors.

Supplier means the person/s that installed assets at Your Premises under Project Symphony.

Term means the period set out in item 5 in the Key Details, and includes an Extension under clause 2(b).

Terms and Conditions means these terms, forming part of the Contract.

Us or **We** means the Electricity Generation and Retail Corporation trading as Synergy ABN 58 673 830 106 of 228 Adelaide Terrace, Perth, Western Australia and includes Synergy's officers and employees.

Verifiable Consent Form means the form by which You give Your express consent to Us disclosing Your non-anonymised, identifiable Metering Data, as set out at the end of this Contract.

Virtual Power Plant means Our network of DER, including those at the Premises, which are aggregated and Orchestrated by Us to generate, store and distribute electricity locally.

Western Power means Electricity Networks Corporation trading as Western Power ABN 18 540 492 861 and includes Western Power's officers, employees, agents, contractors and subcontractors.

Wholesale Electricity Market means the market in relation to the wholesale supply of electricity in the South West Interconnected System, operated by AEMO.

You or **Your** means the person/s named as such in item 1 of the Key Details.

Your Assets means all of the equipment set out in item 8 of the Key Details, which equipment We (or You, with Our permission) may change from time to time in accordance with clause 5.

Executed as an agreement by **[insert customer name]** in their own capacity as well as on behalf of and as agent for any other electricity account holders at the Premises:

Accepted online as a part of Your acceptance of the Encore Orchestration Contract by **[insert customer name]**

Date

Executed as an agreement by the **Electricity Generation and Retail Corporation** trading as **Synergy** by persons authorised by its Board in accordance with section 135(4) and 135(5) of the *Electricity Corporations Act 2005* (WA):

Authorised Signatory

Name (Position)

Date