

## ESPERANCE ENERGY TRANSITION PROJECT SUBSIDY TERMS AND CONDITIONS

By submitting the Application Form, the Customer agrees to the following terms and conditions (**Terms and Conditions**):

### 1 KEY OBLIGATIONS

The Customer acknowledges and agrees that:

- (a) all information provided by the Customer to Horizon Power is true and accurate;
- (b) the Customer is responsible for entering into an agreement with the Contractor for performance of the Works (**Works Contract**);
- (c) the Customer must ensure that the Works Contract the Customer enters into with the Contractor under clause 1(b) is acceptable to the Customer;
- (d) the Customer is responsible for managing the Contractor's performance of the Works, including, but not limited to, pursuing any claims in relation to performance of the Works or any defects of the Works. The Customer acknowledges that Horizon Power has no responsibility or liability in relation to the Contractor's performance of the Works;
- (e) the Customer must notify Horizon Power upon completion of the Works; and
- (f) except for Horizon Power's payment of the Subsidised Amount, the Customer will be responsible for all costs, expenses and liability incurred in relation to the Contractor's performance of the Works.

### 2 PAYMENT OF THE SUBSIDISED AMOUNT

- (a) Horizon Power's sole obligation to the Customer in relation to the Project is to pay the Contractor the Subsidised Amount upon completion of the Works.
- (b) The Customer acknowledges and agrees that if the Customer accepts any quote provided by the Contractor for an amount greater than the Subsidised Amount, the Customer is responsible for, and must pay the Contractor the difference between the quoted amount and the Subsidised Amount in accordance with the Works Contract.
- (c) If the Customer reasonably considers that the Works have not been performed in accordance with the requirements of the Works Contract, the Customer must promptly notify Horizon Power as soon as possible and Horizon Power may withhold payment of the Subsidised Amount until the issue has been resolved.
- (d) Subject to clauses 2(a) and 2(e), Horizon Power is not liable to the Customer for any loss, damage or liability of any kind (including without limitation any Consequential Loss) arising from or in connection

with the Works or in connection with the Terms and Conditions.

- (e) Nothing in these Terms and Conditions is to be taken to exclude, restrict or modify any rights of recovery or compensation the Customer may have under the Australian Consumer Law or any condition, warranty or guarantee that Horizon Power is prohibited by law from excluding, restricting or modifying. All other conditions, warranties and guarantees, whether or not implied by law, are excluded.

### 3 INSPECTION OF THE WORKS

- (a) Horizon Power may, within a reasonable time of being notified of completion of the Works, provide written notice requesting access to the Customer's premises at a specified time and date to inspect the Works and verify proper completion of the Works.
- (b) Subject to clause 3(c), if Horizon Power provides the request as stated in clause 3(a), the Customer must provide Horizon Power with access to the Customer's premises on the time and date as stated in the notice for Horizon Power to inspect the Works.
- (c) If the Customer is unable to provide Horizon Power with access on the time and date specified in the notice, the Customer must, as soon as possible, notify Horizon Power of this. Horizon Power will contact the Customer to organise a mutually acceptable time and date for Horizon Power's inspection of the Works. Once the parties organise a mutually acceptable time and date, the Customer must provide Horizon Power with access to the Customer's premises on that time and date for Horizon Power to inspect the Works.

### 4 USE OF DATA AND INFORMATION

- (a) The Customer releases and holds Horizon Power harmless from any Claim in relation to Horizon Power's use or reliance on any information provided to the Customer by Horizon Power's consultants in relation to the Project.
- (b) Subject to compliance with the *Privacy Act 1988* (Cth), Horizon Power may use the Customer's data and information collected in relation to the Project (including but not limited to, the Customer's bill data) to report on the Project or any other business purposes as required by Horizon Power including, but not limited to, electrification of other Horizon Power serviced areas.

## 5 GENERAL

- (a) In these Terms and Conditions:
- 1) words that are capitalised have the meaning given to those terms in clause 6; and
  - 2) headings are provided for convenience and do not affect the interpretation of the Terms and Conditions.
- (b) If all or a part of the Terms and Conditions (a "provision") is void, unenforceable or illegal in a jurisdiction, it is severed for the purposes of that jurisdiction. The remainder of the Terms and Conditions is of full force and effect and the validity of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of the Terms and Conditions or is contrary to public policy.
- (c) The Terms and Conditions is governed by the law in force in Western Australia from time to time and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts exercising jurisdiction in Western Australia and the courts of appeal from those courts.
- (d) The Terms and Conditions constitutes the entire agreement between the Customer and Horizon Power about its subject matter and any previous agreements, representations, understandings and negotiations on that subject matter cease to have any effect.
- (e) The rights, powers and remedies provided in the Terms and Conditions are cumulative with and not exclusive of the rights, powers or remedies provided by law independently of the Terms and Conditions.
- (f) No amendment or waiver of any clause in the Terms and Conditions will be valid or effective unless made in writing and duly executed by the party giving the waiver.
- (g) Nothing in the Terms and Conditions excludes, restricts or prejudices any of Horizon Power's rights or remedies under any law or subsidiary legislation.

## 6 DEFINITIONS

**Application Form** means the online application for the payment of the Subsidised Amount at [www.horizonpower.com.au/energypackage](http://www.horizonpower.com.au/energypackage) completed by the Customer and submitted to Horizon Power.

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

**Claim** means a demand, action or proceeding of any nature whether actual or threatened and includes any claim for payment of money (including damages):

- (a) under, arising out of, or in any way in connection with, the Terms and Conditions;
- (b) arising out of, or in any way in connection with the Works; or

- (c) arising otherwise under law or in equity including:
  - 1) by statute;
  - 2) in tort for negligence or otherwise, including negligent misrepresentations; or
  - 3) for restitution.

**Consequential Loss** includes any consequential, indirect or special loss, loss of opportunity, loss of anticipated savings, loss of profit, loss of revenue or business or damage to reputation.

**Contractor** means the contractor chosen by the Customer from Horizon Power's list of approved contractors and engaged by the Customer to perform the Works under a Works Contract.

**Customer** means the person or persons that submits the Application Form.

**Horizon Power** means Regional Power Corporation, trading as Horizon Power.

**Project** means the Esperance energy transition project.

**Subsidised Amount** means the amount approved by Horizon Power in reference to the Customer's completed Application Form.

**Works** means the works involved in the transition of gas appliances owned by the Customer and previously supplied by reticulated gas, to electrification or other sources of energy, as listed in the Application and which the Contractor is required to complete for the Customer.

**Works Contract** has the meaning given to it in clause 1(b)