

Supplementary Capacity Contract (Unregistered Equipment)

Australian Energy Market Operator Limited

and

##

Australian Energy Market Operator Limited
ABN 94 072 010 327
Level 12, 171 Collins Street
Melbourne VIC 3000

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Parties

AEMO	Australian Energy Market Operator Limited (ABN 94 072 010 327) Level 12, 171 Collins Street, Melbourne VIC 3000
Service Provider	## (ABN ##) ##
Address for Service	AEMO Attention: Manager – WA Reserve Capacity Email: wa.capacity@aemo.com.au Cc: Attention: Managing Counsel – Gas/WEM Email: Reception.Perth@aemo.com.au
	Service Provider Attention: ## Email: ##

Background

- A. Clause 4.24.1 of the *WEM Rules* relevantly requires *AEMO* to seek to acquire supplementary capacity if, at any time after the day which is six months before the start of a Capacity Year, *AEMO* considers that inadequate *Reserve Capacity* will be available in the *SWIS* to maintain *Power System Security* and *Power System Reliability*.
- B. *AEMO* and the Service Provider have agreed to enter into this *Supplementary Capacity Contract*.

Operative Provisions

1. Interpretation

1.1. Definitions – general

- (a) Terms in capitalised italics have the meaning given in the *WEM Rules* (including Appendix 12 of the *WEM Rules*).
- (b) Other capitalised terms are defined in **clause 1.2**.

1.2. Dictionary

Activation Notice means the activation notice specified in **clause 6**.

Activation Notice Period means the activation notice period specified in **Item (d) of Schedule 3**.

Activation Parameters means the activation parameters specified in **Item (d) of Schedule 3**.

Activation Payment means the activation payment for the Service determined under **clause 9.3**.

Activation Price means the activation price specified in **Item (e) of Schedule 3**.

Actual Service Quantity (measured in *MW* or *MWh* per *Trading Interval*, as applicable) means the quantity of Service provided in a *Trading Interval* (calculated in accordance with **Schedule 4**) relative to the Baseline Quantity.

Availability Payment means the availability payment calculated in accordance with **clause 9.2**.

Availability Price means the availability price specified in **Item (e) of Schedule 3**.

Available, in relation to the Service, means the Service Equipment is (or under this *Supplementary Capacity Contract* is taken to be) capable of increasing *Injection* or reducing *Withdrawal* by the Maximum Service Quantity (relative to the Baseline Quantity).

Baseline Quantity means the baseline quantity specified in **Item (c) of Schedule 3**.

Commencement Date means the commencement date specified in **Item (a) of Schedule 3**.

Condition Precedent means a condition precedent specified in **Schedule 2** Error! Reference source not found..

Condition Precedent Satisfaction Date, in relation to a Condition Precedent, means a condition precedent satisfaction date specified in **Schedule 2**.

Contract Term means the contract term specified in **clause 2**.

Designated Connection Point has the meaning given in **Item (b) of Schedule 3**.

End Date means the end date specified in **Item (a) of Schedule 3**.

Good Electricity Industry Practice means the exercise of the degree of skill, diligence, prudence and foresight that a skilled and experienced person would reasonably and ordinarily exercise under comparable conditions and circumstances, consistent with applicable written laws and statutory instruments and applicable recognised codes, standards and guidelines.

Insolvency Event, in relation to the Service Provider, means the happening of any of these events:

- (a) it is (or states that it is) insolvent or under administration;
- (b) it has a controller (as defined in the Corporations Act 2001 (Cth)) appointed, is in liquidation, in provisional liquidation, under administration, wound up or has had a receiver (or receiver and manager) appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent);
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that party, which is preparatory to or could result in any of the events detailed in **paragraphs (a), (b) or (c)**;
- (e) it is otherwise unable to pay its debts when they fall due; or
- (f) something having a substantially similar effect to the events detailed in **paragraphs (a) to (e)** happens in connection with that party under the law of any jurisdiction.

Interval Meter Data, in relation to each Designated Connection Point and a *Trading Interval*, means data from the relevant interval meter provided by the *Metering Data Agent* to AEMO.

Maximum Service Quantity, in relation to the Service, means the maximum service quantity specified in **Item (c) of Schedule 3** (or any reduced quantity under **clause 3.5** or **clause 12.4**).

Operational Contact means AEMO's Operational Contact or the Service Provider's Operational Contact (as applicable) as specified in **Schedule 5**.

SCADA means AEMO's supervisory control and data acquisition system.

Service means to increase *Injection* or reduce *Withdrawal* by a quantity up to the Maximum Service Quantity (relative to the Baseline Quantity) when required by AEMO under this *Supplementary Capacity Contract*.

Service Equipment means the service equipment specified in **Item (b) of Schedule 3**.

Service Parameter means a service parameter specified in **Item (c) of Schedule 3**.

Service Period means the service period specified in **Item (c) of Schedule 3**.

Service Test means a test of the Service Equipment's ability to provide the Service during the Service Period in accordance with **clause** Error! Reference source not found..

Settlement Period means a *Trading Week*, provided that:

- (a) the first Settlement Period commences on the Commencement Date; and
- (b) the last Settlement Period ends on the End Date.

Supplementary Capacity Payment, in relation to a Settlement Period, means the payment for the Service under this *Supplementary Capacity Contract* as calculated in accordance with **clause 9**.

Unavailable, in relation to the Service, means the Service Equipment is (under **clause 5.2** or **clause 8.4**) taken to be incapable of increasing *Injection* or reducing *Withdrawal* by the Maximum Service Quantity (relative to the Baseline Quantity).

1.3. Interpretation

Unless a contrary intention appears in this *Supplementary Capacity Contract*, a reference to:

- (a) the singular includes the plural and vice versa;
- (b) the words "includes" or "including" or "such as" are not words of limitation, and when introducing an example, do not limit the meaning of the words to which the example relates or to examples of a similar kind;
- (c) a thing (including an amount) is a reference to the whole and each part of it; and
- (d) a period of time dating from a given day or the day of an act or event, is to be calculated exclusive of that day and, if a period of time is specified as commencing on a given day or the day of an act or event, it is to be calculated inclusive of that day.

1.4. Construction

- (a) Headings are inserted for convenience, and do not affect the interpretation of this *Supplementary Capacity Contract*.
- (b) If a word or phrase is defined in this *Supplementary Capacity Contract*, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (c) No rule of construction applies to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it.

1.5. Schedules

- (a) The **Schedules** form part of this *Supplementary Capacity Contract*.
- (b) If a **Schedule** contains any provisions that impose additional obligations to those set out in the Operative Provisions, the provisions in the Schedule apply in respect of the Service, as if the provision were an Operative Provision.

1.6. WEM Rules prevail

If there is any inconsistency between this *Supplementary Capacity Contract* and the *WEM Rules*, the *WEM Rules* prevail to the extent of the inconsistency.

2. Contract Term

2.1. Commencement Date

This *Supplementary Capacity Contract* commences at 8:00 am on the Commencement Date.

2.2. End Date

This *Supplementary Capacity Contract* ends at 8:00 am on the End Date (unless terminated earlier under **clause 12**).

3. Condition Precedent

3.1. Condition Precedent

This *Supplementary Capacity Contract* (other than **clause 1**, this **clause 3** and **clause 14**) has no legal effect unless and until all Conditions Precedent are satisfied by the Service Provider under **clause 3.2** or waived by AEMO under **clause 3.3**.

3.2. Satisfaction

The Service Provider must:

- (a) use reasonable endeavours to satisfy each Condition Precedent as soon as practicable and, in any event, must satisfy each Condition Precedent by the Condition Precedent Satisfaction Date;
- (b) keep AEMO informed regarding the status of each Condition Precedent; and
- (c) notify AEMO in writing promptly if the Service Provider reasonably considers that a Condition Precedent is unlikely to be satisfied by the Condition Precedent Satisfaction Date.

3.3. Extension and waiver

- (a) Each Condition Precedent is for AEMO's benefit.
- (b) AEMO (in its sole discretion) may extend a Condition Precedent Satisfaction Date, or waive a Condition Precedent that is not satisfied by the Condition Precedent Satisfaction Date by notifying the Service Provider to that effect in writing.

3.4. Termination for non-satisfaction

AEMO may terminate this *Supplementary Capacity Contract* if a Condition Precedent is not satisfied by the Condition Precedent Satisfaction Date, and AEMO (in its sole discretion) does not:

- (a) extend the Condition Precedent Satisfaction Date; or
- (b) waive the Condition Precedent.

3.5. Alternative to termination

- (a) AEMO (as an alternative to termination under **clause 3.4**) may reduce the Maximum Service Quantity to a quantity that AEMO reasonably expects the Service Provider to be capable of providing, having regard to all relevant information available to AEMO, by notifying the Service Provider to that effect in writing.
- (a) If the Maximum Service Quantity is reduced under **clause 3.5(a)**:
 - (i) the Service Provider may, by notice in writing, request AEMO to increase the Maximum Service Quantity to a quantity up to but not exceeding the Maximum Service Quantity specified in **Item (c) of Schedule 3**; and
 - (ii) AEMO must increase the Maximum Service Quantity to a quantity (up to but not exceeding the Maximum Service Quantity specified in **Item (c) of Schedule 3**) that

AEMO reasonably expects the Service Provider to be capable of providing, having regard to all relevant information available to AEMO.

4. Service

4.1. Service Parameters and Activation Parameters

The Service Parameters and the Activation Parameters apply for the purposes of this *Supplementary Capacity Contract*.

4.2. Service obligations

The Service Provider must:

- (a) operate and maintain the Service Equipment in accordance with Good Electricity Industry Practice;
- (b) ensure the Service Equipment satisfies the following control and communication requirements at all times during the Contract Term:
 - (i) a single point of communication for activation; and
 - (ii) capability to activate up to the Maximum Service Quantity;
- (c) activate the Service Equipment (or cause the Service Equipment to be activated under appropriate third-party arrangements) and provide the Service when required to do so by AEMO in compliance with the relevant Activation Notice and otherwise in accordance with this *Supplementary Capacity Contract*;
- (d) not enter into or be a party to any contractual or legal arrangement relating to the Service Equipment (other than in the ordinary course of business) that may adversely affect the Service Provider's ability to provide the Service; and
- (e) ensure that each Designated Connection Point is not (and has not previously been) associated with any *Demand Side Programme* in the current *Capacity Year* or the immediately preceding *Capacity Year*.

4.3. Service Provider notification

- (a) The Service Provider must notify AEMO's Operational Contact without undue delay if:
 - (i) the Service Provider changes or modifies any Service Equipment that it owns, operates, or controls in a manner that affects or could reasonably be expected to affect its ability to provide the Service;
 - (ii) the Service Provider becomes aware of any other material information with respect to the Service Equipment (including any Service Equipment applicable to a third-party with whom the Service Provider enters into a contract or an arrangement for the purposes of providing the Service) or the Designated Connection Point (including *NMI* details) that affects or could reasonably be expected to affect the Service Provider's ability to provide the Service; or
 - (iii) an Insolvency Event occurs.
- (b) The Service Provider must notify AEMO's Operational Contact of a proposed change in the Designated Connection Point. AEMO may approve the proposed change (and must not unreasonably withhold its approval of the proposed change) with effect from a time determined by AEMO. AEMO (in its sole discretion) may require the Service Provider to carry out a Service Test following a change in the Designated Connection Point.

4.4. AEMO information request

- (a) AEMO (acting reasonably) may request information from the Service Provider's Operational Contact regarding the Service Equipment or the Service at any time during the Contract Term.
- (b) The Service Provider must provide requested information without undue delay.

5. Availability

5.1. Determining Availability

The Service is taken to be Available in any *Trading Interval* during the Service Period unless it is taken to be Unavailable under **clause 5.2**, or **clause 8.4**.

5.2. Unavailable

The Service is taken to be Unavailable in any *Trading Interval* during the Service Period if:

- (a) a Condition Precedent is not satisfied (and has not been extended or waived under **clause 3.3**);
- (b) the Actual Service Quantity, as measured in accordance with **clause 7** and converted to an average MW value for the *Trading Interval*, is less than 90% of the required quantity (as specified in the Activation Notice) for the *Trading Interval*;
- (c) AEMO loses communication with, or visibility of, the Service Equipment for the entire *Trading Interval*;
- (d) the *Trading Interval* is within a period notified under **clause 5.3**; or
- (e) AEMO otherwise reasonably determines that the Service Equipment is unable to provide the Maximum Service Quantity in the *Trading Interval*.

5.3. Unavailability notification by Service Provider

- (a) The Service Provider must notify AEMO's Operational Contact without undue delay (by telephone and email) if it considers that:
 - (i) the Service Equipment is or will become incapable of increasing *Injection* or reducing *Withdrawal* by the Maximum Service Quantity (relative to the Baseline Quantity); or
 - (ii) the Service is or will become Unavailable for any other reason.
- (b) The notice must specify:
 - (i) when the Service became or will become Unavailable;
 - (ii) the expected period of Unavailability; and
 - (iii) the cause of the Unavailability.
- (c) The Service Provider must notify AEMO's Operational Contact without undue delay (by telephone and email) when the Service becomes Available after a period of Unavailability.

6. Activation

6.1. Activation

- (a) AEMO (in its sole discretion) may issue an Activation Notice to the Service Provider's Operational Contact (by telephone and email) during the Contract Term.
- (b) An Activation Notice must be consistent with the Service Parameters and the Activation Parameters.
- (c) An Activation Notice must specify:

- (i) the *MW* quantity of increased *Injection* or reduced *Withdrawal* (relative to the Baseline Quantity) that is required to be provided during each relevant *Trading Interval*;
 - (ii) the time by when the Service Equipment is required to have increased *Injection* or reduced *Withdrawal* (relative to the Baseline Quantity); and
 - (iii) the time when the Service Equipment is no longer required to maintain the *MW* quantity specified under **clause 6.1(c)(i)**.
- (d) The Service Provider must comply with an Activation Notice.
- (e) AEMO (in its sole discretion) may require a Service Provider to take the following actions in respect of an Activation Notice:
- (i) increase *Injection* or reduce *Withdrawal* (as applicable) before the time specified under **clause 6.1(c)(ii)**, at a rate approximating the service ramp rate, where the service ramp rate is the rate (in *MW* per minute on a linear basis) at which the Service Equipment is required to increase *Injection* or reduce *Withdrawal* in order to provide the *MW* quantity specified under **clause 6.1(c)(i)**; and
 - (ii) reduce *Injection* or increase *Withdrawal* (as applicable) after the time specified under **clause 6.1(c)(iii)** to a level that the Service Provider considers appropriate.

7. Measurement

AEMO must use Interval Meter Data to determine the Actual Service Quantity at each Designated Connection Point (relative to the Baseline Quantity) for each *Trading Interval*.

8. Service Test

8.1. Service Test

AEMO may require the Service Provider to carry out a Service Test if, in respect of an Activation Notice, the Actual Service Quantity, as measured in accordance with **clause 7** and converted to an average *MW* value for the *Trading Interval*, is less than 80% of the required quantity (as specified in the Activation Notice) for the *Trading Interval*.

8.2. Service Test process

The Service Test process is as follows:

- (a) AEMO determines 2 consecutive *Trading Intervals* in the Service Period during which the Service Equipment is to be subject to a Service Test;
- (b) AEMO notifies the Service Provider's Operational Contact of the Service Test *Trading Intervals* in writing; and
- (c) AEMO issues an Activation Notice with respect to the Service Test *Trading Intervals*.

8.3. Service Test outcome

AEMO must determine the Service Test outcome based on Interval Meter Data as follows:

- (a) if (applying **clause 5.2**) the relevant data shows that the Service is taken to be Unavailable in either or both of the Service Test *Trading Intervals*, then the Service Equipment fails the Service Test; and
- (b) otherwise, the Service Equipment passes the Service Test.

8.4. Deemed Unavailability

If the Service Equipment fails a Service Test, the Service is taken to be Unavailable from the start of the first Service Test *Trading Interval* until:

- (a) the Service Equipment passes a Service Test; or
- (b) AEMO otherwise reasonably considers the Service is Available.

9. Supplementary Capacity Payment

9.1. Supplementary Capacity Payment

- (a) AEMO must calculate the Supplementary Capacity Payment for each Settlement Period.
- (b) The Supplementary Capacity Payment is equal to the sum of the Availability Payment and the Activation Payment.

9.2. Availability Payment for Service

The Availability Payment for the Service in a Settlement Period is determined as follows:

$$\text{Availability Payment} = \sum_{t \in \text{tESP}} \left(\frac{\text{AP}}{\text{N}} \right) \times \text{MSQ}$$

where:

AP is the Availability Price for the relevant *Trading Interval* (in \$ per MW per *Trading Day*);

N is the number of *Trading Intervals* in the Service Period in a *Trading Day* (including *Trading Intervals* when the Service is taken to be Unavailable);

MSQ is the Maximum Service Quantity in MW; and

tESP denotes all *Trading Intervals* in the Service Period in the Settlement Period (excluding *Trading Intervals* when the Service is taken to be Unavailable).

9.3. Activation Payment for Service

The Activation Payment for the Service in a Settlement Period is determined as follows:

$$\text{Activation Payment} = \sum_{t \in \text{tESP}} \text{AP} \times \text{ASQ}$$

where:

AP is the Activation Price for the relevant *Trading Interval* (in \$ per MWh);

ASQ is the Actual Service Quantity (in MWh) for the relevant *Trading Interval* determined as follows:

- (a) 0 MWh if the relevant Activation Notice was issued under clause 8.2(c) or the Service was activated for the purposes of Condition Precedent 4 in **Schedule 2**;
- (b) otherwise, the Actual Service Quantity (in MWh) for the relevant *Trading Interval*, up to but not exceeding the MWh quantity specified in the relevant Activation Notice, as determined in accordance with **clause 7**; and

tESP denotes all *Trading Intervals* in the Service Period in the Settlement Period.

10. Settlement

10.1. Settlement if Service Provider is Market Participant

If the Service Provider is a Market Participant, section 9 of the *WEM Rules* applies with respect to Supplementary Capacity Payments.

10.2. Settlement if Service Provider is not Market Participant

If the Service Provider is not a Market Participant, the following settlement process applies for the purposes of this *Supplementary Capacity Contract*:

- (a) For each Settlement Period during the Contract Term, AEMO must issue a recipient-created tax invoice to the Service Provider on the relevant *Invoicing Date* as published by AEMO in accordance with clause 9.3.1(c) of the *WEM Rules* and, subject to clause 9.20.4 of the *WEM Rules*, will pay the Service Provider the Supplementary Capacity Payment via bank transfer to the Service Provider's nominated account within four *Business Days* of the *Invoicing Date*.
- (b) The Service Provider must provide any information and do anything that AEMO reasonably requires to facilitate the payment of the invoice.
- (c) If the Service Provider disagrees with an invoice issued under **clause 10.2(a)**, the Service Provider may lodge a disagreement notice with AEMO by no later than 5pm AWST within 40 *Business Days* following the date on which the invoice was issued.
- (d) AEMO must respond to a disagreement notice within 1 month by:
 - (i) indicating any revisions to the invoice; or
 - (ii) disagreeing with the disagreement notice (and therefore taking no action).
- (e) If AEMO indicates any revisions to the invoice under **clause 10.2(d)(i)**, it will issue a revised invoice on the *Invoicing Day* for the next *Adjustment Process* for the affected Settlement Period as published by AEMO in accordance with clause 9.3.1(h) of the *WEM Rules*, and pay the Service Provider the amount payable via bank transfer to the Service Provider's nominated account within four *Business Days* of the date of the invoice.
- (f) If the Service Provider is not satisfied with AEMO's response pursuant to **clause 10.2(d)(i)** or **clause 10.2(d)(ii)**, the Service Provider may commence a dispute in accordance with **clause 13**.

10.3. GST

Clause 9.1.3 of the *WEM Rules* applies with respect to amounts payable under this *Supplementary Capacity Contract*.

11. Liability

11.1. AEMO's liability cap

- (a) Subject to **clause 11.1(b)**, and other than in respect of any unpaid Supplementary Capacity Payment amounts, the total amount recoverable from AEMO in respect of any and all claims arising out of any one or more events during the Contract Term with respect to, arising from, or in connection with, this *Supplementary Capacity Contract* is limited to the prescribed maximum amount for the purposes of section 126 of the *Electricity Industry Act* and regulation 52 of the *WEM Regulations*.
- (b) Regardless of the nature of any claim, AEMO is not liable in any circumstances for any:
 - (i) damages or losses that are not direct and do not flow naturally from a breach of this *Supplementary Capacity Contract*, even if they may reasonably be supposed to have been in the contemplation of both parties as a probable result of the breach at the time they entered into this *Supplementary Capacity Contract*;
 - (ii) loss of market, opportunity or profit (whether direct or indirect); or
 - (iii) damages or losses to the extent that a claim results from the Service Provider's failure to act in accordance with this *Supplementary Capacity Contract* or Good Electricity Industry Practice, or as otherwise required by law.

11.2. Service Provider's liability cap

- (a) Subject to **clause 11.2(b)**, and other than in respect of any Supplementary Capacity Payment amounts repayable by the Service Provider under this *Supplementary Capacity Contract*, the total amount recoverable from the Service Provider in respect of any and all claims arising out of any one or more events during the Contract Term with respect to, arising from, or in connection with, this *Supplementary Capacity Contract* is limited to the lesser of:
 - (i) the maximum Availability Payments that would be payable to the Service Provider, assuming that the Service is available during each *Dispatch Interval* in each Service Period during the Contract Term; and
 - (ii) \$5 million.
- (b) Regardless of the nature of any claim, the Service Provider is not liable in any circumstances for any:
 - (i) damages or losses that are not direct and do not flow naturally from a breach of this *Supplementary Capacity Contract*, even if they may reasonably be supposed to have been in the contemplation of both parties as a probable result of the breach at the time they entered into this *Supplementary Capacity Contract*;
 - (ii) loss of market, opportunity or profit (whether direct or indirect); or
 - (iii) damages or losses to the extent that a claim results from AEMO's failure to act in accordance with this *Supplementary Capacity Contract* or Good Electricity Industry Practice, or as otherwise required by law.

12. Termination

12.1. Termination by AEMO

AEMO may terminate this *Supplementary Capacity Contract* by giving notice to the Service Provider if:

- (a) (for any period after the Commencement Date) any of the following applies:
 - (i) the Service ceases to be an Eligible Service;
 - (ii) as at any given day, the Service has been Unavailable in more than 50% of *Trading Intervals* in the Service Period in the preceding 28 *Trading Days* during the Contract Term;
 - (iii) the Service Provider breaches a material term of this Supplementary Capacity Contract and, in the case of a breach that is capable of remedy, does not remedy that breach within 10 *Business Days* after AEMO notifies the Service Provider of the breach; or
 - (iv) an Insolvency Event occurs.
- (b) A termination notice takes effect on the later of:
 - (i) the time it is given; and
 - (ii) the time specified in the notice.

12.2. No liability for termination

If AEMO terminates this *Supplementary Capacity Contract*:

- (a) the Service Provider is entitled to receive any Supplementary Capacity Payment arising before the effective date of termination; and
- (b) AEMO is not liable to the Service Provider under *this Supplementary Capacity Contract* in any other respect.

12.3. Consequences of expiry or termination

Subject to **clause 12.2**, expiry or termination of this *Supplementary Capacity Contract* for any reason does not affect any rights of either party against the other party that:

- (a) arose prior to the time at which expiry or termination occurred; and
- (b) otherwise relate to or may arise at any future date from any breach of this *Supplementary Capacity Contract* occurring prior to the expiry or termination.

12.4. Reduction of Maximum Service Quantity

- (a) *AEMO* (acting reasonably and as an alternative to termination) may reduce the Maximum Service Quantity to a quantity *AEMO* reasonably expects the Service Provider to be capable of providing, having regard to the Service Provider's historical performance under this *Supplementary Capacity Contract*, by notifying the Service Provider to that effect in writing.
- (b) If the Maximum Service Quantity is reduced under **clause 12.4(a)**:
 - (i) the Service Provider may, by notice in writing, request *AEMO* to increase the Maximum Service Quantity to a quantity up to but not exceeding the Maximum Service Quantity specified in **Item (c) of Schedule 3**; and
 - (ii) *AEMO* must increase the Maximum Service Quantity to a quantity (up to but not exceeding the Maximum Service Quantity specified in **Item (c) of Schedule 3**) that *AEMO* reasonably expects the Service Provider to be capable of providing, having regard to all relevant information available to *AEMO*.

13. Dispute resolution

13.1. *WEM Rules* dispute process

Subject to **clause 13.2**, the dispute process set out in sections 2.18, 2.19, 2.20, 9.16 and 9.17 of the *WEM Rules* applies to any dispute arising under this *Supplementary Capacity Contract*. If the Service Provider is not a Market Participant, the dispute process applies as if the Service Provider were a Rule Participant for the purposes of those clauses.

13.2. General dispute resolution procedure

- (a) This **clause 13** does not prevent a party seeking an urgent interlocutory injunction from a court of competent jurisdiction.
- (b) Unless otherwise agreed, the parties must continue to perform their obligations under this *Supplementary Capacity Contract* despite the existence of a dispute.

14. General

14.1. Notices

- (a) Subject to **clause 14.1(b)** and (for operational communications) **Schedule 5**, all communications to a party must be:
 - (i) in writing;
 - (ii) marked to the attention of the person named in respect of that party in the **Contract Details**; and
 - (iii) left at, sent by ordinary pre-paid post (airmail if posted to or from a place outside Australia), or in electronic form, to the address, number, or electronic mail address of the addressee specified in respect of that party in the **Contract Details**.
- (b) Subject to the *WEM Rules*, any:

- (i) communications given in the course of the day-to-day running of the *Wholesale Electricity Market* by or on behalf of a party to the other;
 - (ii) notifications regarding Availability of the Service by the Service Provider in accordance with this *Supplementary Capacity Contract*,
- must be made by email (or automated electronic process) or telephone as notified by *AEMO*.
- (c) Unless communications under **clause 14.1(b)** are recorded in some other way satisfactory to and with the consent of both parties, the parties must ensure that logs are kept in which persons or electronic systems giving and receiving those communications record brief details of their substance and timing.
 - (d) Unless a later time is specified in it, a communication takes effect from the time it is received.
 - (e) A communication is taken to be received:
 - (i) in the case of a posted letter, 5 *Business Days* after posting;
 - (ii) in the case of an electronic message, on production of a report by the computer from which the electronic message was sent that indicates that the message was received in its entirety at the electronic mail address of the recipient; and
 - (iii) in the case of a communication under **clause 14.1(b)**, when the communication is received.
 - (f) Other than communications given under **clause 14.1(b)**, if a communication is received, or deemed to be received, on a day that is not a *Business Day*, or after 4:00pm AWST on a *Business Day*, it is taken to be received on the next *Business Day*.
 - (g) A party may at any time by notice given to the other party in writing designate a different person, address, telephone number or electronic mail address for the purposes of this **clause 14.1**, the **Contract Details** and **Schedule 5**.

14.2. No force majeure rights

Clause 4.24.13(a) of the *WEM Rules* applies so as to exclude force majeure rights under this *Supplementary Capacity Contract*.

14.3. Exercise of rights

Subject to the express provisions of this *Supplementary Capacity Contract*, a party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or of any other right, power or remedy. Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

14.4. Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver and:

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

14.5. Assignment or other dealing

- (a) The Service Provider must not assign or otherwise deal with its rights or obligations under this *Supplementary Capacity Contract* or (except in the ordinary course of business) in respect of the Service Equipment without *AEMO*'s written consent.

- (b) *AEMO* must not unreasonably withhold or delay its consent under **clause 14.5(a)**.
- (c) *AEMO* (as a condition of consent under **clause 14.5(a)**) may require the Service Provider and the third-party to enter into a deed of novation with *AEMO* on terms that are reasonably satisfactory to *AEMO* under which the third-party agrees to assume obligations that are substantially equivalent to the Service Provider's obligations under this *Supplementary Capacity Contract*.
- (d) Any purported assignment in breach of this **clause 14.5** is invalid and of no legal effect.

14.6. Amendment and variation

Unless otherwise stated in this *Supplementary Capacity Contract*, this *Supplementary Capacity Contract* may only be varied by agreement of the parties as recorded in writing and signed by the parties.

14.7. Costs and expenses

Except as otherwise agreed by the parties in writing or stated in this *Supplementary Capacity Contract*, each party must pay its own costs in relation to preparing, negotiating and executing this *Supplementary Capacity Contract* and any document related to this *Supplementary Capacity Contract*.

14.8. Entire agreement

- (a) Subject to the *WEM Rules*, this *Supplementary Capacity Contract* constitutes the entire agreement of the parties in connection with provision of the Service and any previous agreements, understandings and negotiations on that subject matter cease to have any effect.
- (b) For the avoidance of doubt, this *Supplementary Capacity Contract* contains everything the parties have agreed on in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by the other party, or by a director, officer, agent or employee of that party, before this *Supplementary Capacity Contract* was executed, save as permitted by law.

14.9. Confidential information

- (a) The Service Provider consents to the use or disclosure of its confidential information by *AEMO* to the extent reasonably necessary for *AEMO* to carry out its functions, or comply with its obligations, under the *WEM Regulations* and the *WEM Rules*.
- (b) This **clause 14.9** survives expiry or termination (for whatever reason) of this *Supplementary Capacity Contract*.

14.10. Counterparts

This *Supplementary Capacity Contract* may be executed in counterparts. If so, the signed copies make up one document and the date of this *Supplementary Capacity Contract* is the date on which the last counterpart is signed.

14.11. Governing law and jurisdiction

This *Supplementary Capacity Contract* and the transactions contemplated by it are governed by the laws in force in Western Australia. Each party submits to the non-exclusive jurisdiction of the courts of that place. The parties will not object to the exercise of jurisdiction by those courts on any basis.

Schedule 1 – Approved contract departures

AEMO has approved the following variations from the standard-form *Supplementary Capacity Contract* for the purposes of clause 4.24.14 of the *WEM Rules*:

Clause/Schedule	Variation

Schedule 2 – Conditions Precedent

No	Requirement	Condition Precedent Satisfaction Date
1.	If the Maximum Service Quantity is greater than 10 MW, the Service Provider must register as a <i>Market Participant</i> .	1 February 20##
2.	The Service Provider must provide <i>NMI</i> details for each Designated Connection Point associated with the Service Equipment, where each Designated Connection Point must have: (a) an interval meter installed; and (b) been assigned a <i>NMI</i> .	1 February 20##
3.	The Service Provider must commission and demonstrate (to <i>AEMO</i> 's satisfaction) the required control and communication requirements specified in clause 0(b) .	1 February 20##
4.	The Service Provider must demonstrate to <i>AEMO</i> 's satisfaction (through activation at its own cost and based on Interval Meter Data) that the Service Equipment is capable of increasing <i>Injection</i> or reducing <i>Withdrawal</i> (as applicable) by a quantity greater or equal to the Maximum Service Quantity (relative to the Baseline Quantity) for 2 consecutive <i>Trading Intervals</i> during the relevant Service Period.	1 February 20##

Schedule 3 – Service

(a) Contract Term

Commencement Date	The later of: <ul style="list-style-type: none"> • 1 December 20##; and • the date on which all Conditions Precedent are satisfied or waived
End Date	1 April 20##

(b) Service Equipment and Designated Connection Point(s)

Service Equipment (unregistered equipment)	##
Designated Connection Point(s)	The following NMI: #

(c) Service Parameters

Service Period	From ## to ## on a <i>Trading Day</i>
Maximum Service Quantity	## MW
Baseline Quantity	As determined in accordance with Schedule 4 .

(d) Activation Parameters

Notification method	Activation Notice
Notification time to be given for activation	##
Minimum duration of single activation	4 <i>Trading Intervals</i> in the Service Period
Maximum duration of single activation	##

(e) Availability Price and Activation Price

Availability Price (\$ per MW per <i>Trading Day</i>)	\$##
Activation Price (\$ per MWh)	\$##

Schedule 4 – Baseline Quantity and Actual Service Quantity

Summary

The Baseline Quantity is calculated with respect to each Activation Event.

The Baseline Quantity is calculated by reference to the aggregated electricity demand of all NMIs from the Designated Connection Points in **Schedule 3**. A separate Baseline Quantity is not calculated for individual NMIs forming part of an aggregation.

AEMO must calculate the Baseline Quantity as follows:

- Step 1 – determine a set of Selected Days for each Activation Event;
- Step 2 – determine the Preliminary Quantity for each relevant *Trading Interval* in each Activation Event;
- Step 3 – calculate a Relative Root Mean Squared Error for each Preliminary Quantity (and if the Relative Root Mean Squared Error for any Preliminary Quantity is greater than 20%, then go back to Step 1 or redetermine the Preliminary Quantity using an adjusted *Injection* or *Withdrawal* quantity based on the set of Designated Connection Points that AEMO reasonably considers more accurately reflects the Service Provider's typical demand);
- Step 4 – determine and apply an Adjustment Factor for each Activation Event; and
- Step 5 – calculate the Baseline Quantity for each *Trading Interval* in each Activation Event.

AEMO then uses the Baseline Quantity to determine the Actual Service Quantity for each *Trading Interval* in each Activation Event.

Definitions

The following definitions apply for the purposes of this **Schedule 4**:

60-Day Period means the 60 calendar days preceding the calendar day that relates to the first *Trading Interval* for which the calculation is made.

Activated Day means a Selected Day on which the Service was activated.

Activation Event means:

- (before the Commencement Date) the set of *Trading Intervals* indicated by the Service Provider for the purposes of **Item 4 in Schedule 2**; and
- (after the Commencement Date) the set of *Trading Intervals* specified in an Activation Notice.

Adjustment Factor means the adjustment factor calculated in accordance with Step 4 of this **Schedule 4**.

Non-Activated Day means a Selected Day on which the Service was not activated.

Preliminary Quantity means a preliminary quantity calculated in accordance with Step 2 of this **Schedule 4**.

Relative Root Mean Squared Error means a relative root mean squared error calculated in accordance with Step 3 of this **Schedule 4**.

Selected Day means an Activated Day or a Non-Activated Day in the 60-Day Period selected by AEMO in accordance with Step 1 of this **Schedule 4**.

Step 1: Determine a set of Selected Days for each Activation Event

The set of Selected Days comprises the 10 Non-Activated Days within the 60-Day Period immediately preceding the calendar day of the Activation Event.

If the 60-Day Period does not contain 10 Non-Activated Days:

- the set of Selected Days comprises the Non-Activated Days where there are more than 5 Non-Activated Days; and
- otherwise, the set of Selected Days comprises the Non-Activated Days in the 60-Day Period plus one or more Activated Days so that the number of Selected Days equals 5. The Activated Days will be selected in order of highest demand of any *Trading Interval* relevant to an Activation Notice. Where 2 or more Activated Days are ranked the same, the Activated Day closest in time to the first *Trading Interval* for which the calculation is being made will be ranked higher.

The Service Provider may request that AEMO exclude a day from the 60-Day Period. AEMO (in its sole discretion) may exclude a day where AEMO reasonably considers that the day is not representative of the Service Provider's *Injection* or *Withdrawal*, having regard to the Service Provider's historical *Injection* or *Withdrawal* quantities.

Step 2: Determine the Preliminary Quantity for each Trading Interval in each Activation Event

AEMO must determine the Preliminary Quantity for each *Trading Interval* in each Activation Event as follows:

$$b_t = \frac{1}{S} \sum_{i=1,2,\dots,S} c_{ti}$$

Where:

b_t = the Preliminary Quantity (in MWh) for a given *Trading Interval* (t)

i = a Selected Day

t = a *Trading Interval*

c = the *Injection* or *Withdrawal* quantity (in MWh) for a given *Trading Interval* (t) occurring on Selected Day (i)

S = the number of days in the set of Selected Days.

Step 3: Calculate a Relative Root Mean Squared Error for each Preliminary Quantity

AEMO must determine a Relative Root Mean Squared Error for each Preliminary Quantity (relative to the 60 Non-Activated Days immediately preceding the *Trading Interval* for which the calculation is being made) as follows:

$$RRMSE = \frac{\sqrt{\sum_{i \in I} (\sum_{t \in T} ((b_t - c_{ti})^2))}}{\frac{1}{N} \times \sum_{t \in T} b_t}$$

Where:

I is the set of 60 Non-Activated Days (i) immediately preceding the *Trading Interval* for which the calculation is being made

T is the set of *Trading Intervals* (t) from which Interval Meter Data is taken for the Preliminary Quantity

N is the total number of *Trading Intervals* in set (T) across all the days in set (I)

b_t is the Preliminary Quantity associated with *Trading Interval* (t) as calculated in Step 2

c_{ti} is the *Injection* or *Withdrawal* quantity (in *MWh*) for a given *Trading Interval* (t) on day (i).

If the Relative Root Mean Squared Error is 20% or greater, then AEMO (in its sole discretion) may:

- go back to Step 1; or
- redetermine the Preliminary Quantity using an adjusted *Injection* or *Withdrawal* quantity based on the set of Designated Connection Points that AEMO reasonably considers more accurately reflects the Service Provider's typical demand.

Step 4: Determine and apply an Adjustment Factor for each Activation Event

AEMO must determine and apply an Adjustment Factor for each Activation Event as follows:

$$a = \frac{\sum_{t=s-8}^{t=s-3} (c_t - b_t)}{6}$$

Where:

a = Adjustment Factor (this may be positive or negative)

s = the start of the first *Trading Interval* (t) in the Activation Event, which may be adjusted by AEMO to reflect operational conditions on the day if required

c = the *Injection* or *Withdrawal* quantity (in *MWh*) for *Trading Interval* (t)

b = the Preliminary Quantity (in *MWh*) for *Trading Interval* (t)

$s-n$ = the *Trading Intervals* before the activation start time.

Where the Adjustment Factor is a positive amount, the Adjustment Factor must not exceed a quantity equivalent to 20% of the amount of the Maximum Service Quantity (converted to *MWh* per *Trading Interval*).

If the Service has for two or more Activation Events on the same day, then the Adjustment Factor for each Activation Event is the Adjustment Factor calculated for the first Activation Event on that day.

Step 5: Calculate the Baseline Quantity for each Trading Interval in each Activation Event

$$B_t = b_t + a$$

Where:

B = the Baseline Quantity (in *MWh*) for *Trading Interval* (t)

a = the Adjustment Factor (this may be positive or negative)

b = the Preliminary Quantity (in *MWh*) for *Trading Interval* (t).

Calculate the Actual Service Quantity for each Trading Interval in each Activation Event

$$D_t = (B_t - c_t)$$

Where:

B = the Baseline Quantity (in *MWh*) for *Trading Interval* (t)

c = the *Injection* or *Withdrawal* quantity (in *MWh*) for the *Trading Interval* for which the calculation is being made

D = the Actual Service Quantity (in *MWh*) for *Trading Interval* (t) determined as follows:

- if the Actual Service Quantity is less than zero, the Actual Service Quantity equals zero;
- if the Actual Service Quantity is greater than the quantity specified in the relevant Activation Notice, the Actual Service Quantity is the quantity specified in the Activation Notice; and
- otherwise, the Actual Service Quantity is as calculated.

Schedule 5 – Operational Contacts

(a) **AEMO's Operational Contact**

Name/Title	WA Market Operations and Support
Telephone No	1300 989 797
Email	wa.operations@aemo.com.au

(b) **Service Provider's Operational Contact**

Primary Contact

Name/Title	##
Telephone No	##
Email	##

Backup Contact

Name/Title	##
Telephone No	##
Email	##