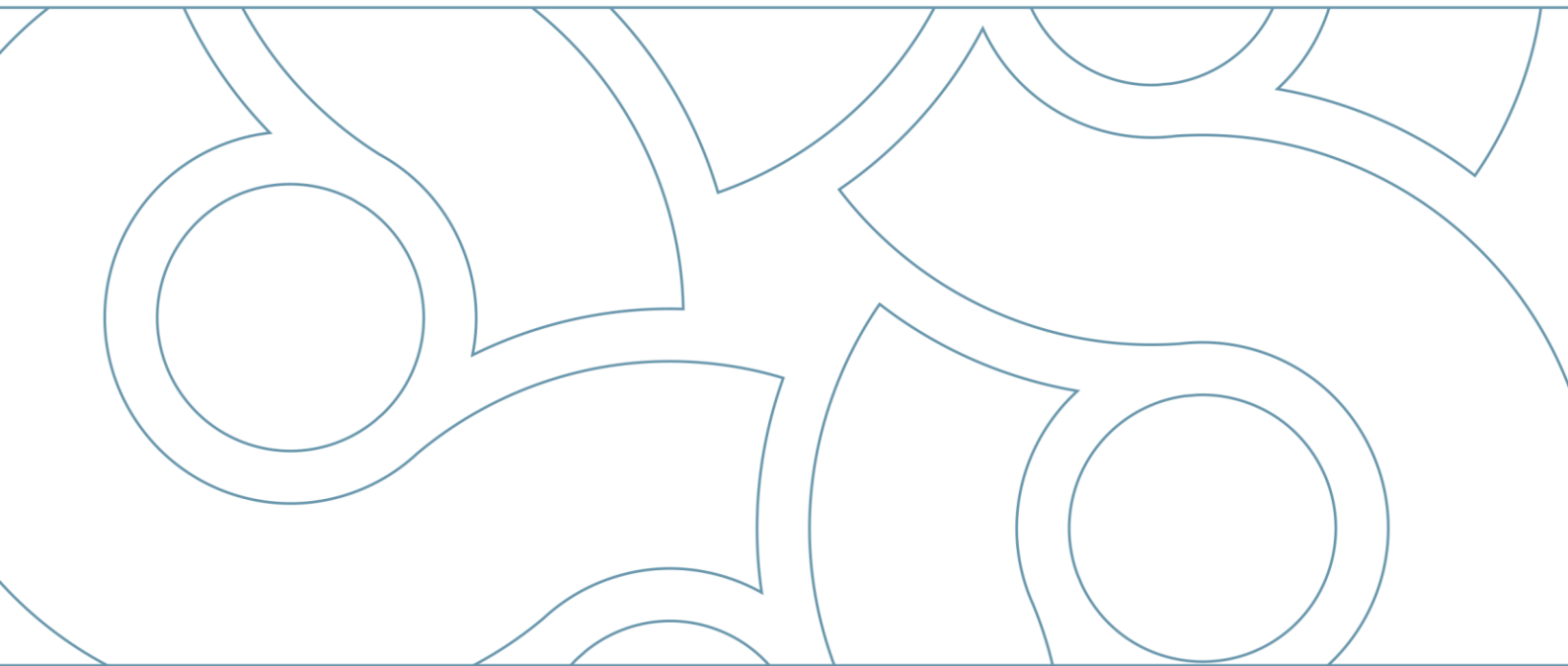


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## Contents

|                                                                                |           |
|--------------------------------------------------------------------------------|-----------|
| <b>1. Agreement</b>                                                            | <b>4</b>  |
| <b>2. Interpretation</b>                                                       | <b>4</b>  |
| <b>3. Scope</b>                                                                | <b>4</b>  |
| <b>4. Definitions</b>                                                          | <b>5</b>  |
| <b>5. General Obligations; Representations and Warranties</b>                  | <b>5</b>  |
| <b>6. Open Access</b>                                                          | <b>6</b>  |
| <b>7. Integrity of Certificates</b>                                            | <b>6</b>  |
| <b>8. Information Systems</b>                                                  | <b>7</b>  |
| <b>9. Force Majeure</b>                                                        | <b>8</b>  |
| <b>10. Assignment</b>                                                          | <b>8</b>  |
| <b>11. Amendments</b>                                                          | <b>9</b>  |
| <b>12. Fees and Charges</b>                                                    | <b>9</b>  |
| <b>13. Term and Termination Rights</b>                                         | <b>10</b> |
| <b>14. Notices</b>                                                             | <b>11</b> |
| <b>15. Liability and Indemnity</b>                                             | <b>11</b> |
| <b>16. Intellectual Property</b>                                               | <b>11</b> |
| <b>17. Confidentiality</b>                                                     | <b>12</b> |
| <b>18. Anti-Money Laundering and Counter Financing of Terrorism ("AMLCFT")</b> | <b>13</b> |
| <b>19. Privacy</b>                                                             | <b>13</b> |
| <b>20. Tax</b>                                                                 | <b>13</b> |
| <b>21. Governing Law and Dispute Resolution</b>                                | <b>13</b> |
| <b>22. Counterparts</b>                                                        | <b>14</b> |
| <b>23. Cumulative Remedies</b>                                                 | <b>14</b> |

|                                                                       |           |
|-----------------------------------------------------------------------|-----------|
| <b>24. Further Assurance</b>                                          | <b>14</b> |
| <b>25. Severance and Invalidity</b>                                   | <b>14</b> |
| <b>26. Contract and Commercial Law Act 2017 (Contractual Privity)</b> | <b>15</b> |
| <b>27. Acceptance</b>                                                 | <b>15</b> |
| <b>Appendix 1 – Fees and Charges (also known as Tariffs)</b>          | <b>17</b> |
| <b>Appendix 2 – Director’s Certificate</b>                            | <b>18</b> |

## 1. Agreement

- 1.1. This Agreement (hereinafter called "the Agreement") is made between Transpower New Zealand Limited trading as EMS Energy Market Services (hereinafter called "the Company"), whose registered office is at: 22 Boulcott Street, Te Aro, Wellington 6011, New Zealand and [ ] (hereinafter called "the Registrant") whose registered office is at: [ ].

## 2. Interpretation

In this Agreement, unless the context otherwise requires;

**Confidential Information** of a party (the Disclosing Party) means all information:

- (a) Obtained by the other party (the Receiving Party) as a result of entering into or performing this Agreement that is by its nature confidential, or is claimed by the Disclosing Party to be confidential; and
  - (b) that relates to the Disclosing Party;
- except to the extent such information:
- i) is in the public domain,
  - ii) was developed independently by the Receiving Party before it was obtained by the Receiving Party as a result of entering into or performing this Agreement, or
  - iii) was or is disclosed to the receiving party by a third party other than in breach of confidence by the third party and in circumstances not importing an ongoing obligation of confidence in respect of the information.

**Effective Date** The date on which this agreement is signed (if signed on different dates, then the date on which the last party signs the agreement).

**Energy Attribute** means an aspect, claim, characteristic or benefit associated with the generation of a quantity of electricity by a Production Facility or Production Group.

**Personal Information** means information about an identifiable individual.

## 3. Scope

- 3.1. The I-REC(E) Code and its Subsidiary Documents are incorporated into and form part of this Agreement.
- 3.2. This Agreement and all subsequent amendments (including, without limitation, amendments to the I-REC(E) Code and/or Subsidiary Documents) constitutes the terms and conditions for the provision of Issuing Services for I-REC(E) (International Renewable Energy Certificate for electricity) between the parties in those areas where the Company has been approved to act under the I-REC(E) Code.
- 3.3. This Agreement represents the whole agreement between the parties in respect of Issuing Services for I-REC(E). The submission of a Production Device or Production Group registration by the Registrant with regard a Production Device or Production Group within those areas where the Company has been approved to act under the I-REC(E) Code shall constitute

agreement that the terms of this Agreement shall encompass such Production Device or Production Group.

- 3.4. The Company has been appointed under the I-REC(E) Code to provide Issuing services in those areas where the Company has been approved to act under the I-REC(E) Code and acts as the agent of I-REC Services BV for that purpose.

#### **4. Definitions**

- 4.1. Save for definitions expressly given, the terms in this Agreement that are identified by capitalisation, have the meanings assigned to them by the I-REC(E) Code and its Subsidiary Documents.

#### **5. General Obligations; Representations and Warranties**

- 5.1. Each party hereby agrees to:

- (a) comply with this Agreement, including, without limitation, with the requirements of the I-REC(E) Code and its Subsidiary Documents;
- (b) act in accordance with all laws applicable to the parties' rights and obligations under this Agreement;
- (c) contribute to the implementation of this Agreement, to the extent that both parties shall provide each other without delay all necessary information required by the application of this Agreement.

- 5.2. The Company shall, in the performance of its duties, roles and responsibilities under this Agreement, directly or through any other entity acting on its behalf, act with professional standards usually required of a services provider of this kind.

- 5.3. Each party represents and warrants that:

- (a) it is duly organised under the laws of jurisdiction of its formation, it has the full right, power and authority to execute, deliver and perform this Agreement, and it has been duly authorised by all necessary governmental, corporate, shareholder or other action to execute, deliver and perform this Agreement;
- (b) the entry into and performance by it of this Agreement do not conflict in any material respect with any relevant law or a judicial order applicable to it, any of its constitutive documents, any existing agreement instrument or document which is binding on it or any of its assets, and
- (c) Its obligations under this Agreement constitute its legal, valid and binding obligations, enforceable in accordance with their respective terms, subject only to applicable bankruptcy, reorganisation, insolvency, moratorium or similar laws affecting creditors' rights generally.

- 5.4. The Registrant further agrees:

- (a) It will advise the Company as soon as reasonably practicable if the Production Device or Production Group change ownership;
- (b) Where the Registrant is a company and the owner of the Production Device or Production Group registered under this agreement, it will provide a Director's certificate, in the form attached at Appendix 2 to this Agreement (if the Registrant is not a company, the Company will advise the Registrant if any certificate is required, and in what format it

must be, and the Registrant agrees to provide that certificate).

5.5. The Registrant represents and warrants:

- (a) that it has the sole authority to act in respect of Energy Attributes associated with any Production Device or Production Group registered under this Agreement;
- (b) that all information provided by the Registrant is complete and accurate;
- (c) it will disclose to the Company, at the time an I-REC(E) certificate is requested to be issued, all labelling schemes (or similar) that will relate to the Energy Attributes subject to the certificate applied for;
- (d) it will notify the Company as soon as reasonably practicable of any information that may show non-conformity of the Production Device or Production Group with previously supplied information.
- (e) if it is been assigned the exclusive authority to act in respect of Energy Attributes Associated with any Production Device or Production Group registered under this Agreement, it will notify the Company as soon as reasonably practicable if there is any interruption to or removal of its exclusive authority to act.

## 6. Open Access

- 6.1. The Registrant shall grant access to I-REC Services, the Company or their respective agents to all registered Production Devices or Production Groups and any associated document, records and other information related to the issuance of I-REC(E) Certificates under this Agreement where the documents requested are necessary (in the Company's reasonable opinion) to satisfy the Company as to whether it has the information it requires to issue the I-REC(E) Certificates. The Registrant's failure to permit such access entitles the Company to suspend Issuing of I-REC(E) Certificates.
- 6.2. The Registrant acknowledges and accepts the right of the Company to perform control and auditing visits to the Registrant's premises and/or the premises of the Production Device or Production Group, as prescribed by the I-REC(E) Code. The Registrant will provide the Company with access to the Registrant's premises on request for the purposes of confirming any matters relevant to the issue of I-REC(E) Certificates in a reasonable and timely manner. The Registrant shall ensure that the owners of all Production Devices or Production Groups registered under their respective names shall enable such visits without undue delay or limitation.

## 7. Integrity of Certificates

- 7.1. The Company and the Registrant shall co-operate (to the extent within their power) to ensure that no unjust enrichment occurs as a result of an error in the course of the processing of a Certificate or as a result of any unauthorised access to, or malfunctioning of, the I-REC Registry; and for that purpose Certificates issued following the Registrant's request may be withdrawn or amended by the Company, having regard to the objective of securing the accuracy of the Certificates.
- 7.2. When applying for Certificates, the Registrant represents and warrants that the qualifying energy, for which Certificates are being applied:

- (a) has not and will not be sold or otherwise consumed (including such consumption by a self-producer) as having the attributes evidenced by the Certificates unless such Certificates accompany the energy subject to such sale or consumption, and
- (b) has not been produced under a public consumption obligation where consumers are deemed to have bought the attributes through a levy or similar national arrangement.

7.3. The Company shall have the right to compare data relating to a Production Device or Production Group held on the I-REC Registry with that held by other registries of other certification schemes for which that Production Device or Production Group is registered. The Registrant hereby agrees the Company to access such other registries of other certification schemes. The Company may suspend (pending further evidence reasonably satisfactory to the Company) or withhold Issuing of Certificates if the Company is not be able to verify their integrity to the sole satisfaction of the Company.

## **8. Information Systems**

- 8.1. The Company issues I-REC(E) Certificates by using an electronic registry with internet access. This registry (the I-REC Registry) is provided by I-REC Services BV.
- 8.2. The Registrant shall arrange, at his own cost, the necessary information technology architecture and interfaces which he needs in order to use the I-REC Registry.
- 8.3. The Registrant shall be responsible for sufficient data security relating to the use of the I-REC Registry including account passwords.
- 8.4. NOT USED.
- 8.5. The Company, where it has been informed by Evident/I-REC Services BV and/or The International REC standard Foundation with sufficient time, shall inform the Registrant in writing at least 30 calendar days prior to the implementation of a material change to the I-REC Registry made by I-REC Services. In urgent cases (e.g. where system integrity is at risk) changes can be made without prior notice. The Company shall inform the Registrant by email as soon as possible after the change has been made.
- 8.6. The Company where it has been informed by Evident/I-REC Services BV and/or The International REC standard Foundation with sufficient time shall inform the Registrant by email and by notice on its website ten (10) days in advance of planned unavailability of the I-REC Registry. The Registrant shall be informed of other unavailability preventing the use of the I-REC Registry as soon as reasonably possible.
- 8.7. The Company has the right to request that Evident remove or suspend access to the I-REC Registry service by the Registrant if:
  - (a) in the reasonable opinion of the Company, there is misuse of the system by the Registrant (including, without limitation, its employees, agents and other parties acting on the Registrant's behalf in the performance of this Agreement), or
  - (b) the Registrant is in breach of this Agreement.
- 8.8. The Registrant will be given written notice of any suspension. The Company shall request that Evident ceases the suspension upon resolution of the issue identified. The Company will

request that Evident permanently remove access to the I-REC Registry service by the Registrant by written notice thereof to the Registrant where the misuse or breach persists.

8.9. The Registrant agrees with the Company throughout the term of this Agreement:

- (a) to use the I-REC Registry, its associated website and I-REC documentation for the purpose of I-REC only;
- (b) to attend training in the use of the I-REC Registry or to procure that at least one of its employees does so; when required by the Company, at its own expense; Such a training would take place online and be no longer than 1 hour for a maximum of 1 time per year;
- (c) not to cause or permit any unauthorised person to use the I-REC Registry, its associated website and I-REC documentation at any time during the term of this Agreement;
- (d) to notify the Company as soon as reasonably practicable upon discovery of any faults or defects in the I-REC Registry and/or its associated website and to co-operate fully with the Company in the diagnosis and cure of any such fault or defect;
- (e) to use only the current version of the I-REC Registry available from time to time.

## **9. Force Majeure**

- 9.1. For the purposes of this Agreement, force majeure means an occurrence beyond the reasonable control of the party claiming force majeure which it could not reasonably have avoided or overcome and which makes it impossible for it to perform its obligations hereunder, including, but without limitation, due to the failure of communications or computer systems.
- 9.2. If a party is fully or partly prevented due to force majeure from performing its obligations under this Agreement and such party complies with the requirements of this clause, no breach or default on the part of such party shall be deemed to have occurred and, it shall be released from those obligations for the period of time and to the extent that such force majeure prevents its performance. No obligation to pay damages will then accrue but the Company shall use best endeavours to issue I-REC Certificates in respect of electricity generated during such period of force majeure that would otherwise have been eligible to receive I-REC Certificates.
- 9.3. In the event, and to the extent, the obligations of the party claiming force majeure are released by force majeure, the other party's corresponding obligations shall also be released.
- 9.4. The parties shall inform each other of the occurrence of force majeure as well as of its end without delay and shall use all commercially reasonable efforts to mitigate the effects of the force majeure.

## **10. Assignment**

- 10.1. Each party may assign this Agreement only with the written consent of the other party, such consent cannot be unreasonably withheld or delayed.
- 10.2. The Company may transfer this Agreement to a new service provider with the prior written consent of the Registrant. If no new service provider has been appointed, the Company can terminate this Agreement by providing no less than six (6) months' notice and the Registrant

shall have the right to receive a refund of fees paid under this Agreement for any part of the services that have been paid for but have not been effectively provided.

## **11. Amendments**

- 11.1. The Company may make amendments to the terms of this Agreement. Any unilateral changes to this Agreement made by the Company will be notified to the Registrant in writing (including email) not less than 90 days prior to becoming effective.
- 11.2. Each of the parties confirms that:
  - (a) the Code Subsidiary Document 05 (Change Management) applies hereto (as such may be amended by I-REC Services from time to time); and
  - (b) it will use its best efforts to amend this Agreement if such amendment is necessary, required or desirable (in the reasonable opinion of either party) due to operational, legal or compliance reasons.

## **12. Fees and Charges**

- 12.1. The Fees and Charges shall be calculated in accordance with the Fees and Charges applicable at the time of the Company's issuance of an invoice. The Company retains the right unilaterally to change its Fees and Charges. The current Fees and Charges are set out in Appendix 1, as amended under 12.2 below.
- 12.2. Changes to the Fees and Charges shall be implemented no more frequently than annually, with effect from 1 January each year, such change to be notified to the Registrant in writing (including email) no later than 1 October of the preceding year.
- 12.3. The Company may delegate issuance of invoices under this agreement to I-REC Services BV.
- 12.4. The Registrant will pay the Fees as set out in Appendix 1 Fees to this Agreement. Payment of an invoice issued by the Company is recorded when funds are cleared for value into the nominated bank account stated on the invoice.
- 12.5. The Company will invoice the Registrant at the end of the month in which the certificates have been provided for the fees and the Registrant will pay the invoice without set-off or deduction on the 20<sup>th</sup> day of the month following the issue of invoice ("Due Date").
- 12.6. The Registrant will be liable to pay interest at the rate of 11% per annum on any overdue sum not paid by the Due Date.
- 12.7. The Registrant must make full payment by the Due Date of the relevant invoice. Failure to make payment by Due Date will result in the suspension of Issuing for any and all Production Devices or Production Groups registered by the Registrant. The suspension will only be lifted upon clearance of the due payment. The Registrant shall not be entitled to any compensation under this Agreement or otherwise arising out of such suspension.
- 12.8. In any legal proceedings taken by the Company to recover unpaid Fees, the Registrant shall be liable to pay all reasonable administrative fees as well as costs on a Solicitor-Client basis incurred by the Company in taking proceedings.

12.9. The Registrant shall remain responsible for payment of all invoiced fees regardless of whether suspension has been applied or a notice of termination made until such time as full payment has been cleared.

12.10. If the Registrant disputes any amount invoiced, it shall notify the Company of the nature of the dispute within ten (10) business days of receipt of the invoice giving all relevant details. Pending the resolution of the dispute the Registrant shall be entitled to withhold payment of the invoice. All disputes relating to invoices shall be resolved in accordance with clause 21.

### **13. Term and Termination Rights**

13.1. This Agreement shall come into force as of the Effective Date and shall have a Minimum Term of twelve (12) months. On expiry of the Minimum Term, this Agreement may be terminated by either party by giving the other party thirty (30) days' prior written notice of termination in the case of termination by the Registrant and six (6) months' prior written notice of termination by the Company (each case being "Ordinary Termination"). In the event of Ordinary Termination, the Agreement shall remain legally binding on the parties until, but only in respect of, all rights and obligations already created or existing under the Agreement prior to the date of the Ordinary Termination are fully performed by both parties.

13.2. Nevertheless, if a party fails to perform any of its obligations (other than when such obligation is released pursuant to the force majeure clause) under this Agreement, and such failure is not cured within ten (10) business days of a written demand, the other party shall be entitled to immediately cease to perform its obligations, except that any fees incurred for work completed shall remain owing and any certificates requested prior to the termination that would have been issued but for the termination will be issued.

13.3. In the case that:

- (a) a party fails to perform any of its obligations on a continued and repeated basis, or
  - (b) a party voluntarily commences or is subject to the commencement of a composition or arrangement of any kind with its creditors (including, without limitation, voluntary winding-up), or
  - (c) a party commits any fraud or any other unlawful or criminal act in connection with this Agreement or its operation,
- the other Party (the "Terminating Party") may terminate the Agreement ("Early Termination") by giving notice to the defaulting party. A notice of Early Termination may be given by telephone if that notice is confirmed in writing within two (2) business days.

13.4. In case of Early Termination, the Terminating Party shall have the right to be compensated for damages as provided for by New Zealand Law. Notwithstanding the preceding sentence, the parties understand and confirm that in case of the Company being the Terminating Party (a) it is reasonable to assume that, in the absence of the Early Termination, this Agreement would have persisted for at least six (6) months from the date of the Early Termination, and (b) consequently, that the reasonable pre-estimate of the Company's loss in case of the Early Termination is the amount equal to six (6) monthly Fees and Charges (that have been payable by the Registrant under this Agreement during the six (6) month period preceding the Early Termination of this Agreement).

13.5. NOT USED

13.6. This provision shall survive termination of this Agreement.

## **14. Notices**

- 14.1. Every notice, request, demand, or other communication under this Agreement shall be issued in accordance with the details set out in Schedule A of this Agreement. Each party is responsible for notifying the other party of any changes to the details in Schedule A of this Agreement and ensuring confirmation of receipt of such change notification.
- 14.2. Any notice, request, demand or other communication to be given or made under this Agreement shall be deemed to have been delivered, in the case of any notice, request, demand or other communication given or made by facsimile or e-mail when despatched, unless despatched outside normal business hours, when it shall be deemed to have been delivered on the next business day following the date on which it was despatched or, in the case of any notice, request, demand or other communication given or made by letter, posted by registered mail, one (1) business day after the registered delivery date.

## **15. Liability and Indemnity**

- 15.1. Neither party will be liable to the other party for any special, indirect or consequential loss or damage, or for any loss of production, profit, revenue, business contract or anticipated saving, or for any financing costs or increase in operating costs for any breach of this Agreement, losses incurred by one of the parties unless the losses arise from gross negligence, intentional default or fraud on the part of the other party.
- 15.2. Each party has a duty to use its best endeavours to limit the extent of the loss caused. If the injured party does not implement adequate measures to limit the extent of the damage, compensation may be reduced.
- 15.3. Unless otherwise provided by governing law, and except for the case of gross negligence, intentional default or fraud by the liable party;
- (a) the Company's liability to the Registrant, whether in contract, tort (including negligence or breach of statutory duty) or otherwise, arising out of or in connection with this Agreement shall be limited to (i) ten thousand (10,000) United States Dollars per incident, and (ii) a maximum aggregate amount of thirty thousand (30,000) United States Dollars; and
  - (b) the Registrant's liability to the Company, whether in contract, tort (including negligence or breach of statutory duty) or otherwise, arising out of or in connection with this Agreement shall be limited to (i) ten thousand (10,000) United States Dollars per incident, and (ii) a maximum aggregate amount of thirty thousand (30,000) United States Dollars.
- 15.4. The Registrant shall indemnify and hold harmless the Company from and against all claims, damages and liabilities including costs and fees made by third parties against the Company arising from or in connection with the breach of any of the Registrant's obligations set out at clause 5.4 above.

## **16. Intellectual Property**

- 16.1. No intellectual property in the I-REC Registry, any I-REC documentation, the I-REC website or the Company's website shall (either wholly or partially) be transferred to the Registrant under or pursuant to this Agreement.
- 16.2. The Registrant holds a non-exclusive, non-transferable licence to use the I-REC Registry, its associated website, and I-REC documentation solely to enable the Registrant to enjoy Issuing Services.
- 16.3. Neither party shall do or omit to do, or authorise any third party to do, or omit to do, any act which is inconsistent with the rights, ownership or use (as the case may be) of intellectual property of the other party or of Evident / I-REC Services B.V. or The International REC Standard Foundation.
- 16.4. For the purpose of this Agreement, "intellectual property" means:
- (a) patents, utility models, supplementary protection certificates, petty patents, rights in trade secrets and other confidential or undisclosed information (such as inventions (whether patentable or not) or know-how), plant variety rights, registered designs, rights in copyright (including authors' and neighbouring or related rights), database rights, design rights, trademarks and service marks; and
  - (b) all registrations or applications to register any of the items referred to in paragraph (a); and
  - (c) all rights in the nature of any of the items referred to in paragraphs (a) or (b) including continuations and divisional applications, reputation, personality or image, trade names, business names, brand names, logos, domain names and URLs, rights in unfair competition and, without prejudice to anything set out elsewhere in this definition, rights to sue for passing off and all rights having equivalent or similar effect to, and the right to apply for any of, the rights referred to in this definition in any jurisdiction.

## **17. Confidentiality**

- 17.1. Information about individuals and organisations held within the I-REC Registry is held confidentially and will only be used by the Company to provide the registry services in accordance with the I-REC(E) Code and its Subsidiary Documents.
- 17.2. Disclosure of Confidential Information: A receiving party must not disclose Confidential Information of the disclosing party other than:
- (a) To any third parties who are engaged to assist a party in the performance of this Agreement, but only if that party needs to know the Confidential Information to exercise or perform rights or obligations under this Agreement;
  - (b) to its professional advisers, auditors and bankers where strictly necessary to the performance of their services;
  - (c) as required by law or for the purposes of judicial proceedings;
  - (d) as required by any securities exchange or regulatory or governmental body to which the receiving party is subject or submits;
  - (e) as authorised in writing by the disclosing party; or
  - (f) as permitted by this Agreement;
  - (g) This clause 17.2 is subject to clause 17.3.
- 17.3. Undertakings and Notice: A Receiving Party must not disclose Confidential Information of the Disclosing Party under clause 17.2(a), (b), (e) or (f) unless the receiving party obtains a confidentiality undertaking from the person to whom the Confidential Information is to be

disclosed on terms no less onerous than those set out in this clause 17 before disclosing the Confidential Information. Any information to be disclosed in the circumstances set out in clause 17.1(c) or (d) may only be disclosed after notice to the disclosing party, unless the receiving party is prevented from notifying the disclosing party by Law.

- 17.4. Use of Confidential Information: A receiving party must not use Confidential Information of the Disclosing Party for any purpose other than to provide the Services or otherwise exercise or perform rights or obligations under this Agreement.
- 17.5. Security of Confidential Information: A Receiving Party must implement reasonable security safeguards against the unauthorised use or disclosure of Confidential Information of the Disclosing Party.
- 17.6. or Destruction: A Receiving Party must promptly return to the Disclosing Party, or destroy:
- (a) all Confidential Information of the Disclosing Party in the receiving party's possession on termination or expiry of this Agreement; and
  - (b) all Confidential Information of the Disclosing Party that the Disclosing Party requires the Receiving Party to return or destroy at any time,
  - (c) and use reasonable endeavours to ensure that any third party to whom the Receiving Party has disclosed Confidential Information of the Disclosing Party does the same.

## **18. Anti-Money Laundering and Counter Financing of Terrorism ("AMLCFT")**

18.1. The Registrant will provide all information reasonably requested by the Company in order to comply with its AMLCFT requirements under the I-REC(E) Code and Subsidiary Documents, including updating information after the Registrant has been registered where reasonable.

## **19. Privacy**

- 19.1. In order to carry out AMLCFT and due diligence checks the Company may receive Personal Information of officers or owners of the Registrant. The Company may share that information with relevant AMLCFT advisers and I-REC Foundation and Evident BV for the purposes of complying with its AMLCFT obligations under the I-REC(E) Code and Subsidiary Documents.
- 19.2. The parties will comply with the Privacy Act 2020 in relation to any personal information collected or held pursuant to this Agreement.

## **20. Tax**

- 20.1. All amounts referred to through this Agreement are exclusive of any applicable Goods and Services Tax (GST) and withholding or similar taxes.

## **21. Governing Law and Dispute Resolution**

- 21.1. This Agreement and any disputes or non-contractual obligation arising out of or in connection with this Agreement shall be governed by, and construed in accordance with the law of New Zealand. Each party hereby submits to the non-exclusive jurisdiction of the courts of New Zealand over any dispute arising out of or in connection with this Agreement.
- 21.2. If a dispute about this Agreement arises between the parties then the following process applies;
- (a) Either party may give notice of the dispute to the other party (a "Dispute Notice")
  - (b) The Dispute Notice must set out the basis for the dispute.

- (c) The parties must, within 5 Business Days after the non-notifying party receives the Dispute Notice, meet for the purpose of resolving the dispute (including by virtual meeting).
- (d) If;
  - (I) the parties cannot resolve the dispute within 15 Business Days of the first meeting or such longer period as the parties may agree (the "Negotiation Period"); and
  - (II) the parties have not agreed to refer the dispute to ADR,
    - either party may commence court proceedings in respect of the dispute.

21.3. Neither party will commence any court proceedings in respect of a dispute:

- (a) if a Dispute Notice for the dispute has not been given;
- (b) before the end of the Negotiation Period for the dispute; or
- (c) before the end of any ADR process the dispute has been referred to,
- (d) other than to seek urgent interim relief.

21.4. The parties must continue to seek to resolve a dispute by negotiation whether or not the dispute has been referred to ADR.

21.5. Pending resolution of a dispute, the parties must continue to perform their obligations under this agreement.

## **22. Counterparts**

22.1. This Agreement may be executed in one or more parts by the parties on separate counterpart or facsimile copies each of which when so executed by any party shall be an original but all executed counterpart or facsimile copies shall together when delivered constitute but one agreement. This Agreement shall not be completed delivered or dated until each party has received counterpart or facsimile copies validly executed by all other parties.

## **23. Cumulative Remedies**

23.1. Any remedy or right conferred upon any party for breach of this Agreement shall be in addition to and without prejudice to all other rights and remedies available to it.

## **24. Further Assurance**

24.1. Each party agrees to execute, acknowledge and deliver such further instruments, and do all further similar acts, as may be necessary or appropriate to carry out the purposes and intent of this Agreement.

## **25. Severance and Invalidity**

25.1. If any provision of this Agreement is held by a court or other competent authority to be unlawful, void or unenforceable, it shall be deemed to be deleted from this Agreement and

shall be of no force and effect and this Agreement shall remain in full force and effect as if such provision had not originally been contained in this Agreement. In the event of any such deletion the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable and satisfactory alternative provision in place of the provision deleted.

## 26. Contract and Commercial Law Act 2017 (Contractual Privity)

26.1. This Agreement does not create any right enforceable by any person who is not a party to it under s13 of the Contract and Commercial Law Act 2017, but this clause 29 does not affect any right or remedy of a Third Party which exists or is available apart from that Act.

## 27. Acceptance

Signed in acceptance of the above terms and conditions of business

For and on behalf of the Company

**Transpower New Zealand Limited trading as  
EMS Energy Market Services**

Signature:

.....  
Name:

.....  
Position:

.....  
Date:

.....

for and on behalf of the Registrant:

.....  
Signature:

.....  
Name (printed):

.....  
Position:

.....  
Date:

.....

### (a) Communication Details

Every notice, request, demand or other communication to the Company shall be made in writing by registered mail or e-mail, to the address and marked for the attention of the person(s) set out below:

|          |                                                  |
|----------|--------------------------------------------------|
| Name:    | EMS                                              |
| Address: | Waikoukou, 22 Boulcott Street<br><br>PO Box 1021 |

|                |                |
|----------------|----------------|
| Postal Code:   | 6145           |
| City           | Wellington     |
| Country        | New Zealand    |
| Phone number   | 04 590 6823    |
| E-mail address | RECS@EMS.co.nz |
| Fax number     | 0800 344 747   |

Every notice, request, demand or other communication to the Registrant shall be made in writing by registered mail or facsimile transmission or e-mail, to the address or facsimile number and marked for the attention of the person(s) set out below:

|                |  |
|----------------|--|
| Name:          |  |
| Address:       |  |
| Postal Code:   |  |
| City           |  |
| Country        |  |
| Phone number   |  |
| E-mail address |  |
| Fax number     |  |

## **Appendix 1 – Fees and Charges (also known as Tariffs)**

|                                             |               |
|---------------------------------------------|---------------|
| Registrant application fee -                | Free          |
| One-time device registration fee -          | \$1500.00 NZD |
| Device renewal fee after 5 years –          | \$600.00 NZD  |
| Issuance fee (perMWh) –                     | 0.04 NZD      |
| Issuance fee for self-consumption (per MWh) | 0.05 NZD      |

## **Appendix 2 – Director’s Certificate (Where Registrant is also Owner of the Production Device/s)**

To: Transpower New Zealand Ltd t/a EMS

I, [Name of Director], Director of [ Name of Registrant] Ltd, hereby certify;

[Name of Registrant] is the legal owner of the business that produces electricity from the following Production Facilities/Production Group: [Details of Production Facility/Production Group]

Signed

[Name]

Date: