

CONSULTATION DRAFT
Behind the Meter
Distributed Energy Resources
Provider Code

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This Code sets good practice standards for providers of distributed energy resource products, systems and services.

Providers who have been accepted by the Code Administrator as Code Signatories (referred to as “we”) are bound to comply with the Code. The Code applies to our residential and small business customers (and unless we expressly exclude this in the contract, to our other customers). Customers protected by this Code are referred to as “you”.

The Code complements and goes beyond the law in many aspects and also provides a complaint-handling process and independent monitoring of our compliance.

Part A (Overview) sets out the Code’s key commitments and protections provided to you.

Part B (Practices) sets out the detail of what we must do to comply with this Code.

Part C (Administration) includes administration and compliance arrangements for this Code, along with attachments and technical definitions.

Note that governance arrangements are subject to ongoing discussions.

PART A - Key commitments

The aims of this Code are to:

- a) provide you with clear, accurate and relevant information to help you make informed choices;
- b) make you aware of your rights under the law and this Code;
- c) ensure that our sales practices are responsible;
- d) ensure that products, systems, services and documentation provided under this Code are fit for purpose;
- e) provide staff training and work processes that ensure that we comply with the law and this Code; and
- f) ensure that we will be responsive to your needs and take prompt, appropriate action if you make a complaint.

A.1 BEFORE WE SELL TO YOU

Our promotional material will be clear, accurate and relevant.

Our sales and quotation practices will be responsible and not include pressure selling.

To empower you to make effective choices, our pre-sale information will be clear, including:

- What performance and benefits you should expect from products, systems and services we supply;
- What the up-front costs of purchase and installation will be;
- Any areas of the purchase that may involve additional costs during installation;
- What the ongoing costs of energy will be, including any applicable incentives or rebates and any continuing service fees;
- The expected life of the product or system;
- The estimated costs of ongoing maintenance and end-of-life costs;
- What responsibility you will have for operation, safety and maintenance; and
- Any limitations that may impact you such as portability or functionality.

We will take special care when providing written information or oral explanations if you are in vulnerable circumstances or have special needs, for example, difficulty with the English language or impaired sight or hearing.

If we provide you with a quote, it will be kept open for you to accept for at least 10 business days.

[See Part B.1 for further detail]

A.2 WHEN WE SELL TO YOU

We will provide you with fit for purpose products, systems and services.

We will provide you with a contract that states clearly what products, systems and services will be supplied, in what timeframes and all the contract costs.

Our contract will advise you if you are entitled to any cooling off period.

We will draw to your attention any areas of the contract that have the potential to create disagreements.

We will make sure that both of us have signed the contract before proceeding.

[See Part B.2 for further detail]

A.3 PAYMENT AND FINANCE

If we help to arrange financing for your purchase, we will make sure that you are provided with all the relevant information including the identity of the financier, the required payments, interest rate, fees, terms and conditions and relevant legal rights and responsibilities and any entitlement you may have to financial hardship assistance.

We will only work with Credit Providers that have an Australian Financial Services License (AFSL).

If you exercise your cooling off rights, we will refund any deposit within [7 days] of you advising us.

[See Part B.3 for further detail]

A.4 INSTALLATION AND AFTER SALES

After installation of the supplied products, we will provide you with all necessary documentation and make sure that all steps are taken so that you get the benefit of your purchase.

Where we sub-contract any installation work to others, we will continue to take responsibility for the work and make sure that it complies with all applicable legislation, regulations, standards and guidelines.

If you choose to take full responsibility for any post-installation steps, we will make sure that you are aware of what steps need to be taken to get the benefits of your purchase.

If we agree any changes to the contract, this must be in writing and signed by both of us.

[See Part B.4 for further detail]

A.5 COMPLAINT HANDLING AND WARRANTY

We will be responsive to you and deal appropriately with you, including if you make a complaint about your purchase.

We will provide you with a warranty for all supplied products and workmanship that guarantees a reasonable period of working life. We will promptly honour our obligations under warranties after being advised of a fault.

We will also advise you at signing of the contract who to contact about your purchase (eg. a supplier or distributor) if we exit the market.

We will respond promptly to any complaint you make about your purchase.

[See Part B.5 for further detail]

A.6 GENERAL BUSINESS MANAGEMENT

We will comply with existing legislation, regulations, Australian Standards and practices required under this Code.

Even if we are not legally bound by the Privacy Act, we will still take reasonable steps to protect your personal information and to comply with any request by you for access to your personal information.

[See Part B.6 for further detail]

A.7 ADMINISTRATION

The Code Administrator is responsible for monitoring and enforcing this Code and is overseen by the Code Review and Oversight Panel. We will comply with any reasonable requests made by the Administrator or the Panel.

[See Part C for further detail]

Note that arrangements for Governance of this Code are still to be determined and will be added as available.

PART B - Practice requirements

B.1 BEFORE WE SELL TO YOU

B.1.1. Advertisements and promotions

All of our advertisements, promotions, quotations and statements we use must be legal, truthful and comply with all relevant legislation. We must:

- a) ensure all state and federal government incentive schemes are honestly and accurately represented, including not misrepresenting an association with government, or falsely claiming to be part of a government scheme;
- b) not provide any false or misleading claims relating to the company, product or services being offered including system performance, stocks and substitution of products;
- c) clearly attribute any claims relating to performance and savings to a reputable source;
- d) advertise the total price as prominently as we advertise a component of the price;
- e) provide information that is specific to the state or region of advertisement; and
- f) not engage in any misleading or deceptive conduct in relation to the price, value or quality of goods or services including:
 - i. failing to clearly outline disclaimers or relying on disclaimers buried in small print in order to deliberately mislead a consumer;
 - ii. making statements with promises, predictions or opinions that are known to be untrue or incorrect, or for which there are no reasonable grounds to make them;
 - iii. quoting tariffs or financial incentives of any kind that are no longer available or not available in the region of advertisement;
 - iv. misleading consumers about the impact that installing the distributed energy resource product, system or service will have on their energy costs;
 - v. misleading consumers in relation to the overall capacity or output of the product or system, either through exaggeration or through a misleading focus on only part of the product or system;

- vi. selectively advertising components of a product or service, with the intention of making it appear that the whole product or service is of the same size, scale or value;
- vii. misleading consumers about the place of origin (manufacture or delivery) of a product;
- viii. exaggerating or misleading a consumer regarding their need for the product or service; and
- ix. making potentially misleading representations regarding the cost of finance or an alternative purchasing arrangement, including representing that there is no additional cost for the finance or alternative purchasing arrangement when the cost is being recovered elsewhere in the overall price (e.g. where the price of the financed product or service has been inflated above the cash price or market value of the product).

B.1.2. **Marketing practices**

We must adhere to responsible sales and quoting practices at all times and avoid high-pressure sales tactics that may induce you to make hasty or uninformed decisions about the products or services you are considering. High-pressure sales tactics include (for example):

- a) seeking to sell to you if you are unable to understand the information and/or the contract (e.g. we will never target customers who are in vulnerable circumstances such as due to mental illness or physical disability, age, learning difficulties, or speaking English as a second language);
- b) offering discounts for agreeing to provide testimonials and/or referrals;
- c) claiming “community” or bulk-buy discounts apply, if they don’t;
- d) revisiting you uninvited intending to pressure you;
- e) applying psychological pressure to persuade you to make a quick purchase decision (eg. by unfairly appealing to your emotions);
- f) employing badgering techniques, such as making frequent telephone calls, to pressure you into signing a contract; and
- g) other conduct that the Code Administrator may reasonably view as high-pressure sales tactics.

B.1.3. **Approvals**

Where the quote is for an installation on a strata title unit and requires the owners’ corporation’s approval, we must inform you of the need to obtain that approval.

B.1.4. **Sales disclosures**

When marketing, we must ensure that:

- a) all sales agents show you their company-issued identification;
- b) any interactive internet marketing channel clearly identifies for you the company whose products, systems or services are being promoted;
- c) we explain up-front the purpose of any unsolicited contact (whether a visit or telephone call) and inform you that you can ask the sales agent to leave or end the contact at any time;
- d) we leave the premises or end the contact immediately if you ask us to do so; and
- e) we explain your rights under the Australian Consumer Law (ACL) including the right to terminate a sales agreement within ten business days for unsolicited sales.

Consultation Question 1.

Does the Code deal sufficiently with all avenues for unsolicited marketing of behind-the-meter products - eg. door to door, telemarketing, targeted internet marketing etc?

B.1.5. **Incentives**

Where we refer to a government or regulatory certification, we must accurately explain to you any benefits or incentives these offer, including situations where they may not apply.

B.1.6. **Materials and contact information**

- a) When we provide any marketing material, we must also provide you with the Code Administrator Approved Fact Sheet(s) that explains the consumer protection framework that applies under legislation and this Code and sets out other key information. If you agree, we may provide this electronically, but otherwise must be provided as a hard copy.
- b) Before we enter into a contract with you, we must provide you with the address of the local office or showroom, an email or other electronic address and a telephone number where any queries can be answered.

B.2 SALE PRACTICES

B.2.1. Written quote and contract

We must provide you with a written quote and contract to you that specifies:

- a) the full name, Australian Company Number (if relevant) and physical address of the Provider;
- b) an itemised list of the products, systems and/ or services to be supplied providing full specifications (including for products details such as the manufacturer, model, year, quantities, configuration and power ratings);
- c) the total price of all products, systems and services. Where this includes supply of energy, the energy tariffs and all associated fees and charges that will apply to you must be specified. Where services are provided and periodic charges apply, the amount and frequency of the charges must be specified and any rights we have to increase those charges during the term of the contract;
- d) the total value of any discounts, regulatory certificates, incentives or rebates and Goods and Services Tax (GST) that applies;
- e) business terms, including the payment method, deposits and timetable, and how long our quote will be valid (at least 10 business days);
- f) information about how the product, system or service works and its expected life;
- g) information about any known product or system limitations that may affect your current or future use (for example, where a battery system does not provide back-up power capability) or that may impact the costs you will incur;
- h) information about any specific performance or safety issues that may need to be managed by you;
- i) where we know that you intend to disconnect from the grid, we must provide you with relevant information including any risks that may arise as a result;
- j) where we know that you have medical equipment connected that provides essential medical support such as cooling/heating or life-support, we must bring any issues or risks to your attention; and
- k) information about the portability of products, systems and services;

B.2.2. **Physical installations**

- a) Where a physical installation of a distributed energy resource system is involved, we must undertake a site-specific full system design including how the new system will integrate with other products, systems or services. We must provide the proposed installation plan (a sketch or diagram is acceptable), any configuration or positioning issues and their impact on efficiency, and the system's site-specific expected performance. The performance estimate must be based on data obtained from a reputable source, approved by the Code Administrator.
- b) We may provide the system design referred to in paragraph a) as an initial deliverable of the contract, but only if:
 - i. this information is provided before the expiry of any cooling-off period;
 - ii. the initial contract includes an outline of the likely system performance estimate (to enable you to make an informed purchase decision); and
 - iii. you must be entitled to a full refund upon request, if you do not accept the site-specific full system design and performance estimate within 10 business days of receiving it.

B.2.3. **Timetables and circumstances beyond our control**

- a) In our written quote and contract, we must specify any site conditions and circumstances beyond our control that may result in extra chargeable work not covered by the quote (eg. fees for meter exchange/reconfiguration, repairs to existing faults, and changing dedicated off-peak control devices if required).
- b) In our written quote and contract, we must specify an estimated timetable for supplying products and systems and any installation work to be performed. If these are out of our control, we will advise you in both the written quote and contract.

B.2.4. **Quote and contract details**

- a) In our written quote and contract, we must specify details about any after-sales services, guarantees and express warranties. If you are a consumer customer (ie. not a business), the written quote and contract must include:
 - i. a statement that your rights under the warranty sit alongside the consumer guarantees granted under ACL and cannot be excluded by the contract;

- ii. the name and contact details of our supplier in case you want to pursue your consumer guarantee rights under ACL against that supplier;
- iii. your cooling-off and termination rights (if applicable); and
- iv. full disclosure of all assumptions made in relation to systems and finance offerings including:
 - system design, performance and output assumptions;
 - financial savings including any government financial incentives, savings relating to return on investment, income and energy prices;
 - estimated maintenance costs for products and systems and end-of-life costs;
 - information about how to make a complaint and the complaint resolution process including the customer's right to access an external dispute resolution scheme (where applicable), to take a complaint to the Code Administrator and to take a complaint to a government regulator;
 - information about the customer's other legal rights under legislation or this Code, including any right to financial hardship assistance; and
 - any other important information as applicable.
- b) We must express the contract in a clear, accurate and transparent way, using plain language and in legible print.
- c) We must also provide you with any relevant Code Administrator Approved Fact Sheet(s) along with the contract. We may give these to you electronically if you agree. Otherwise we must provide them in hard copy.
- d) Both of us must sign the agreement and any amendments. Equivalent methods of legal agreement other than signing a written contract in person are also permitted (for example, electronic acceptance).
- e) We must issue you with a receipt for all deposits collected.

B.2.5. Explanation of the contract

- a) We must explain the contract to you prior to you entering into the agreement.
- b) We must draw your attention to any requirements of the contract with a higher than normal risk of disagreement (eg. where additional fees may arise, or any difference between a verbal quote and the final price).

- c) We must clearly explain the process for the payment and trade of any government or regulatory certificates, and of any relevant trading facility (e.g. for the Small-Scale Technology Certificates (STC) Clearing House, this would include that STCs are only sold when there is a buyer with no guarantees of how long they will take to sell or of the price).
- d) We must advise you that your electricity contract/tariff may change following installation of the distributed energy resource product, system or service and that it is your responsibility to contact your electricity supplier:
 - i. before signing a contract, to check what new electricity tariff rates may be applied; and
 - ii. after installation of the product, system or service, to confirm that the agreed tariff has been applied.

Consultation Question 2.

This recognises that the purchase of products or systems may result in a consumer's electricity tariff changing. To alert consumers, paragraph d) requires the product or system provider to tell consumers this and that it is their responsibility to contact the electricity supplier before purchasing the product or system to see what tariffs will apply.

Is this sufficient to protect consumers? Note that the provision of electricity – and hence electricity providers – are not within the ambit of the Code and so the Code cannot place obligations on them. Also, for privacy reasons it is not possible for the product or system provider to undertake these enquiries on behalf of the consumer.

- e) Where your distributed energy resource product or system is to be installed at a strata title unit, and requires the owners' corporation's written consent, you must obtain that written consent and provide it to us before signing the contract. If we do not obtain that written consent from you before the contract is signed and the owners' corporation subsequently refuses consent, we must remove the product or system at our own cost and return the site to its former state. We also must provide you with a full refund of the purchase price.

B.2.6. Connection to the grid

- a) If your distributed energy resource product, system or service requires approval from your energy distributor for connection to the grid, before a contract is signed, we must inform you of the steps that need to be taken by you to obtain grid connection approval and the relevant approval paperwork that must be completed and submitted prior to installation.

(See paragraph B.4.2 for other obligations we must meet.)

- b) Where you authorise us to obtain grid connection approval on your behalf, we must not install the distributed energy resource product or system until approval is provided. If approval is not obtained, we must provide you with a full refund.
- c) Where you take responsibility for obtaining grid connection approval and your application for grid connection approval is rejected; and you have already signed the contract with us, we must provide you with a refund minus reasonable expenses incurred by us to the point of termination of the contract.

B.2.7. Fit for purpose products, systems and services

- a) You have the right to expect that products, systems and services supplied by us will meet your reasonable expectations including but not limited to:
 - i. meeting your needs as explained to us (unless we have clearly explained to you that those needs cannot be met);
 - ii. performing properly;
 - iii. reflecting the agreed contract;
 - iv. be fit for purpose as per the specifications provided and as outlined by us; and
 - v. installation in accordance with manufacturer's specifications, applicable Australian Standards and good industry practice.

B.3 PAYMENT AND FINANCE PRACTICES

B.3.1. Finance and alternative purchasing arrangements

Note: The Code does not provide an exhaustive list of the notification obligations which apply to credit providers. Credit providers are required to meet obligations imposed by section 21C of the Privacy Act 1988 (Cth) and clause 4.1 of the Credit Reporting Privacy Code.

- a) When we offer you a product or system (whether directly or via a third-party), with a structured payment option that is an alternative to initial outright purchase, we must ensure that this is structured as a credit contract or credit lease through a licensed credit provider and that you receive the following clear and accurate information:
 - i. the name of the licensed credit provider to whom you will be contracted for the arrangement;
 - ii. a clear statement that the structured payment option is available only if you wish to take advantage of the finance;

- iii. the comparative cost of that same product or system if you were to purchase it outright on that day;
- the disclosures required under the National Credit Code including in relation to fees and charges
- iv. whether at the conclusion of the credit contract or lease:
- you own the product or system; or
 - you have any entitlement to any ongoing service or pricing; and/or
 - details, including any associated costs and/or fees, of any option or options available to you to purchase the product or system.
- v. a statement that questions and complaints about the arrangement should be directed to the provider with whom you will be contracted.

Note: To comply with these requirements, we may attach information provided by the credit provider.

Consultation Question 3.

The Code requires a product or system structured payment plan to be through a licensed credit provider (ie. where the consumer is not required to make payment in full upon installation). This means that the consumer has the benefit of the National Credit Code protections including interest rate requirements, fee disclosures, hardship provisions and external dispute resolution access. Do these benefits outweigh the restrictions for industry?

- b) Where we offer you an energy purchase agreement either directly or through a third party provider, we must ensure that you are provided with:
- i. the aggregate amount payable over the agreement's term based on a stated, reasonable estimate of the energy you will consume;
 - ii. a clear statement that the you must pay the stated price for the energy for the term of the contract and that the stated price may not reflect the market price and may not be competitive with the price of energy purchased through other methods.
- c) We will not offer you an agreement which involves "third line forcing", such as supplying a product, system or service on condition that you purchase energy or services from another supplier, unless prior notification to, or authorisation from, the ACCC has been provided in accordance with the *Competition and Consumer Act 2010 (Cth)*.

B.3.2. **Cooling-off period**

Under the ACL, where the sale is unsolicited, you must be given 10 business days after you sign a contract to cancel the contract without penalty (the “cooling-off period”).

If you wish to withdraw from a valid contract after the expiry of any cooling-off period, we may apply our own policies regarding fees for cancellation, as specified in the initial contract. You have rights under the ACL and any such cancellation or termination fees must be reasonable and related to the cost incurred by us.

B.3.3. **Refunds**

For distributed energy resource systems, we must provide you with a full refund upon request when:

- a) we are going to provide a system design as part of the contract and paragraph B.2.2.b) applies and:
 - i. the final system design provided in accordance with paragraph B.2.2.a) is significantly different to that quoted at the point of contract and is not signed off by you; and/or
 - ii. the estimated delivery timeframe for installation completion that was agreed upon at the point of contract is not honoured, for reasons reasonably within our control, and you do not consent to a revised timeframe;
- b) paragraph B.2.3.a) applies and:
 - i. extra chargeable work arises, which was not specified in the initial contract, the additional costs are not borne by us and you do not consent to these additional costs.

B.4 **POST-SALE AND INSTALLATION PRACTICES**

B.4.1. **Post-installation**

- a) We must advise you how to measure the performance of your distributed energy resource product, system or service. The measure must be appropriate to the application and be based on objective standards that are acceptable to the Code Administrator. We must specify, using at least one of the following methods, how the performance can be measured:
 - i. Demonstrating a monitoring method to you;
 - ii. Written instructions on how you should read and interpret measuring or monitoring outputs;

- iii. Providing you with a measuring or monitoring device that connects to the product, system or service; or
 - iv. Providing you with access to a remote monitoring service.
- b) We must inform you how to appropriately maintain your product or system and that you should do so on a regular basis (providing maintenance documentation in accordance with section xx below is sufficient).
 - c) After installation of the supplied products, we will provide you with all necessary documentation and make sure that all steps are taken so that you get the benefit of your purchase.

B.4.2. **Connection to the grid**

- a) To facilitate any required connection to the grid that you authorise us to make in accordance with paragraph B.2.6 we must:
 - i. prepare and submit within a reasonable timeframe all relevant documentation required by the electricity supplier and/or distributor for meter installation and connection of the product, system or service to the grid;
 - ii. respond within a reasonable timeframe to any additional compliance requests from the distributor or electricity supplier (for example, re-submitting incorrect paperwork), and consult with the customer if necessary; and
 - iii. keep you apprised of progress at each step.
- b) If, after we provide you with the information required by paragraph B.2.6.a), you take responsibility for submitting the required documentation to obtain grid connection approval, we must clearly explain to you each step in the process for preparing and submitting the documentation to the electricity supplier and/or distributor. We must:
 - i. provide you with information for where to find and how to complete and submit paper or on-line forms;
 - ii. provide you with expected timeframes and any deadlines for each step of the process;
 - iii. advise you of contact details for queries or following up on progress; and
 - iv. advise of any potential problems that may arise.

Consultation Question 4.

The Code (Paragraphs B.2.6 and B.4.2.b) contemplates that the consumer may want to organise connection to the grid themselves – eg. where a

solar system is purchased (rather than delegating this task to the system provider). This paragraph places obligations on the system provider to assist the consumer with information through the process.

Does this achieve the right balance between consumer protection and consumer autonomy, recognising that the multi-party nature of the task of connecting to the grid creates potential for miscommunications and delays that adversely affect the consumer?

B.4.3. Documentation

- a) We must provide you with comprehensive information for safe, effective operation of your purchased product, system or service. The documentation required will vary depending on the specifics of the purchase but must meet Code Administrator requirements.
- b) Documentation may be provided to you in either electronic format or hard copy. Where appropriate, specified details of where this information can be found (for example, a web link) is acceptable. However, hard copies must be provided if you ask for them.

B.5 COMPLAINT HANDLING PRACTICES AND WARRANTIES

B.5.1. In-house procedures and complaints handling

- a) If you are dissatisfied with a distributed energy resource product, system or service offered or provided, you can submit a complaint directly to us. A complaint may include, for example, any expression of dissatisfaction with a product, system or service offered or provided, with the sales process or salesperson, or with the complaints handling procedure itself.
- b) We must have an appropriate internal complaint handling procedure that is fair, efficient and transparent, in line with the following:
 - i. the complaint handling procedure must be compliant with relevant legislation and standards including the Australian Standard on Complaints Handling AS ISO 10002-2014;
 - ii. information about the complaints process must be readily accessible by both you and staff;
 - iii. we must log the complaint and begin its investigation within a reasonable time of its receipt;
 - iv. every reasonable effort must be made to advise you as soon as possible of receipt of the complaint and the expected timeframe for resolution of that complaint;

- v. feedback on the outcome of complaints must be provided to the you within 21 days of receipt. Where additional time is required:
 - vi. you must be informed if we need for more time to complete investigation; and
 - vii. the investigation must be completed within 30 days of receipt of the complaint;
 - viii. where you are dissatisfied with the outcome of a complaint, we must provide you with the appropriate contact details for escalating that complaint either internally and externally, including to the Code Administrator. This is best done by clearly documenting the internal and external avenues for complaints handling; and
 - ix. we must maintain appropriate record keeping of complaints and their outcomes.
- c) If you are not satisfied with our resolution of your complaint, you can contact the relevant consumer protection organisation, for example the state Consumer Affairs or Fair Trading body.
 - d) You are encouraged to inform the Code Administrator of any behaviour you report to a consumer protection organisation which may constitute a breach of the Code, even if your complaint is resolved. You can do this by using the dispute form available at (URL) or in writing to (email/ or address).

B.5.2. **Warranty**

- a) We must provide you with a standard minimum supplier's warranty period on the operation and performance of the distributed energy resource product, system or service, including workmanship and products.
- b) The period must meet or exceed the period set from time to time by the Code Administrator for the particular distributed energy resource product, system or service.
- c) That supplier's warranty exists over and above your rights under consumer guarantees in ACL.
- d) You are entitled to claim a remedy if the goods or services do not meet a consumer guarantee or supplier's warranty.
- e) We must implement warranty repairs or replacements within a reasonable timeframe.
- f) You will not be entitled to a remedy if we do not meet a consumer guarantee (statutory and supplier's warranty) due to something:
 - i. someone else said or did (excluding our agents or employees); or

- ii. beyond human control that happened after the goods or services were supplied (for example, an extreme weather event).

B.6 BUSINESS MANAGEMENT PRACTICES

B.6.1. Compliance with the law

- a) We must comply with all local, state and federal legislation, relevant Accreditation Guidelines, and regulations including but not limited to:
 - i. The Renewable Energy Target (Renewable Energy (Electricity) Act 2000 (Cth) and Renewable Energy (Electricity) (Charge) Act 2000 (Cth) which is supported by the Renewable Energy (Electricity) Regulations 2001 (Cth).
 - ii. The Australian Government Do Not Call Registry (Do Not Call Register Act 2006 (Cth)) and associated telemarketing standards including permitted hours for contacting consumers.
 - iii. Schedule 2 of the Competition and Consumer Act 2010 (Cth).
 - iv. Respecting “Do Not Knock” and “No Hawkers” stickers

The Appendix in Part D contains a more extensive list of relevant laws.

B.6.2. Privacy

- a) We have obligations under the Privacy Act 1988 (Cth) and the Spam Act 2003 (Cth) in relation to collection, use and disclosure of personal information. We must be aware of and comply with such legal obligations at all times.
- b) Subject to paragraph a), we may use personal information collected from you:
 - i. for the purpose of the intended sale; and
 - ii. for future marketing of its products, systems and services that relate to the sale; or
 - iii. where you might otherwise reasonably expect to receive marketing material from us.
- c) Although not required by this Code, we may seek your consent to receive marketing material, by way of an opt-in clause in the contract or other appropriate document.

- d) Regardless of whether you consented to receiving marketing material as allowed by paragraph c), we must provide a simple, easy way for you to ask not to receive direct marketing communications and include a clear, prominent opt-out provision in each marketing communication.
- e) We must not use your personal data for purposes other than those described in paragraph b) (for example, we must not provide the data to a third party or use the data to promote a business other than one with which you have a direct relationship), unless we have obtained express permission from you.
- f) This section sets out the minimum standard for use of customer data. We can exceed this minimum standard in our marketing practices, in accordance with all other provisions of this Code and the *Privacy Act 1988*.

B.6.3. **Training**

- a) We must train our sales agents, representatives, contractors and employees about our products, systems and services and their responsibilities under this Code so that they can provide accurate information and quality services to you.
- b) We must ensure the safety of our installers, subcontractors and employees and demonstrate due diligence in ensuring the safety of persons under our direct or indirect responsibility.
- c) Our people must be appropriately qualified and have completed the relevant safety training modules (as specified by the relevant regulator or by the Code Administrator) appropriate to the work.

B.7 **PROMOTION OF THIS CODE**

We must ensure that you are made aware of this Code and:

- a) take all reasonable steps to promote the benefits of this Code to customers, including telling you about this Code and, on request, providing information about the Code approved by the Code Administrator for use by us;
- b) advertise the latest version of this Code on our online presence and in other relevant marketing documents; and
- c) ensure that you are aware of our complaints handling provisions.

We undertake to you to comply with this Code and we must:

- a) comply with any standards or guidelines that are made by the Code Administrator and published on the Code website that apply to specific distributed energy resource products, systems or services that we provide;
- b) be responsible for all actions governed by this Code, whether taken by our employees, contractors, agents, and any other individuals or businesses acting on our behalf;
- c) ensure that our employees, contractors, agents, and any other individuals or businesses acting on our behalf comply with the latest version of this Code; and
- d) incorporate these undertakings into our contract with you.

PART C - Code Administration

C.1 THE CODE ADMINISTRATOR

This Code is administered by [TBC] on behalf of industry, overseen by the Industry Code Advisory Council. The Code Administrator will:

C.1.1. Applications

Provide an application form for becoming a Signatory to the Code and specify the supporting documents required;

- a) set the application fee(s) and revise these from time to time; and
- b) assess applications to sign the Code including obtaining any legal, integrity, financial or other expert advice required.

C.1.2. Code Brand Mark

Set Code Brand Mark guidelines for Signatories and enforce compliance with them;

C.1.3. Standards and guidelines

Develop standards and guidelines, for example, to provide certainty for industry as to practice expectations or to specify practice expectations for providers of new products, systems or services in order to meet the key commitments in Part A of this Code. Standards and guidelines are not binding on Signatories until at least 3 months after publishing on the Code website;

Consultation Question 5.

This gives power to the Code Administrator to develop standards and guidelines to support the key commitments in Part A of the Code (3 months' notice must be given via the Code website). It is a mechanism for ensuring that the Code keeps up with market developments. Is this appropriately balanced with fairness and certainty for industry?

C.1.4. Training and information;

- a) provide training and supporting material on the Code to assist Signatories; and
- b) approve information material about the Code to be provided by Signatories to potential customers.

C.1.5. **Monitoring and investigations;**

- a) monitor compliance with the Code, for example, undertake regular compliance audits and mystery shopping, assess customer satisfaction, analyse customer complaints and investigate repeat instances;
- b) develop and publish a Complaints Procedure setting out how the Code Administrator will respond to and investigate an allegation of breach of the Code;
- c) investigate complaints or reports of non-compliance with the Code (whether self-reported, made by customers, another Signatory, regulators or others); and
- d) determine when a breach of the Code has occurred and what remedial action or sanction is appropriate and attempt to negotiate an outcome that is satisfactory to both the Signatory and the customer.
- e) enforce remedial actions and sanctions which may include:
 - i. rectify the issues that gave rise to the breach;
 - ii. train staff to minimise the likelihood of repeat breaches;
 - iii. appoint an external auditor, at the Signatory's cost, to audit areas of activity relevant to the breach (generally required if there are more than three major breaches in a 12 month period);
 - iv. publicise the breach, including the name of the Signatory, on the Code website; and
 - v. where appropriate, refer cases to the Code Review Panel for consideration.

C.1.6. **Fees**

Set annual and other fees payable by Signatories, revise these from time to time, publish the details on the Code website and notify Signatories.

C.1.7. **Review of Code**

- a) advise the Code Review Panel about any changes to the Code that are appropriate, for example, because of changes to energy markets, technology, industry make-up and government regulation, so that the Code continues to meet its stated objectives; and
- b) where the Code Review Panel decides to amend the Code, notify Signatories by email (with at least 3 months notice of any significant change to the Code) and provide information to assist Signatories to comply.

C.1.8. **Other**

- a) perform secretariat functions for the Code Review Panel; and
- b) oversee promotion of the Code.

C.2 **ROLE OF THE CODE REVIEW PANEL**

C.2.1. **Responsibilities**

The Code Review Panel is responsible for:

- a) overseeing the administration of this Code;
- b) arbitrating cases referred to it by the Code Administrator;
- c) hearing and arbitrating appeals from any Signatory affected by a decision of the Code Administrator;
- d) referring systemic breaches of law to relevant regulators;
- e) conducting its own inquiries into Code compliance;
- f) publishing an annual report on the Code's operation on-line. This must include reporting on Code compliance, to enable assessment of the Code's effectiveness, ensure the Code standards meet the identified objectives and community expectations, and to identify systemic issues and areas for improvement. All breaches and sanctions occurring each year must be reported. This information will not identify the names of any Signatories, with the exception of:
 - i. cases where a Signatory has been removed or suspended from the Code; and
 - ii. severe breaches that are not rectified by the Signatory; and
- g) every 3 years, engaging an independent body to undertake a review of the Code and its governance framework including by seeking the views of stakeholders (the review report is to be published on the Code website) and revising the Code in light of that review.

C.2.2. **Independence and qualification**

- a) The Code Review Panel must be an independent body. All representatives must be independent of Signatories. They must not have any conflict of interest, for example, must not have been recently employed by, or a consultant to, any Signatory.

- b) Code Review Panel members must be suitably qualified to arbitrate cases referred by the Code Administrator and to hear appeals against sanctions imposed by the Code Administrator.
- c) No employee or representative of the Code Administrator may sit on the Code Review Panel.
- d) Code Review Panel members are appointed for a period of three years and are eligible for reappointment.

C.2.3. **Operation**

- a) The Code Review Panel must operate within its Terms of Reference .
- b) The Code Review Panel must meet regularly to consider how the Code operates, complaints data, possible policy changes and revisions to the Code.
- c) All decisions of the Code Review Panel are final. Signatories have no right of review beyond the Code Review Panel.

C.3 **OUR OBLIGATIONS TO THE CODE ADMINISTRATOR AND CODE REVIEW PANEL**

C.3.1. **Fees and costs**

- a) We must pay annual and other fees as fixed by the Code Administrator from time to time and notified to us.
- b) Where the Code Administrator obtains the approval of the Code Review Panel to levy Signatories to fund a cost associated with the Code, for example, to promote the Code publicly, we must pay our share of that cost.
- c) If we do not pay a due amount on time, we agree that the Code Administrator is entitled to remove us as a signatory to the Code.

C.3.2. **Brand Mark**

- a) We must only use the Code brand mark in accordance with the brand mark guidelines developed by the Code Administrator and published on the Code website.

C.3.3. **Record keeping**

- a) We must be able to demonstrate our compliance with the Code and provide evidence of compliance to the Code Administrator when a suspected breach of the Code is being investigated. This may include:

- i. documented procedures;
 - ii. discussion of standard practices; and
 - iii. examples of standard documentation given to customers, such as contracts and warranty documents.
- b) So that the Code Administrator can audit our compliance with the Code, we must retain records of our dealings with customers and of our internal procedures and training that relate to the Code for at least five years.

C.3.4. **Reporting**

- a) We must provide an annual confirmation of our compliance with the Code and our ongoing commitment to implementing the Code.
- b) We must appoint a primary contact person for all matters and correspondence relating to the Code (the Primary Contact) and inform the Code Administrator immediately of any change in circumstances that may impact on the Primary Contact's ability to fulfil their role.
- c) We must provide the Code Administrator with up-to-date details for the Primary Contact, including email address, title and telephone number and inform the Code Administrator within 28 days of a change to these]details.
- d) On request, we must provide the Code Administrator with our complaint handling procedures (see paragraph B.5.1).
- e) We must inform the Code Administrator, within 10 business days of being notified of receipt of a complaint against us with an energy ombudsman, other disputes resolution service or consumer affairs body.
- f) We must inform the Code Administrator of any breaches of the Code by other signatories to the Code.

C.3.5. **Cooperation with the Code Administrator**

- a) We must provide the Code Administrator with the following information and data upon request:
 - i. records of all relevant business activities and transactions relating to a suspected breach, including (if applicable) information provided to the customer who lodged the complaint.;
 - ii. details of any known breaches of this Code;
 - iii. regular (for example, quarterly) complaints data, including:
 - the number of complaints received;
 - the type of complaints received;

- the number of resolved complaints; and
- iv. any other information that the Code Administrator deems relevant for investigating a suspected breach of this Code.
- b) We must comply in a timely manner with reasonable requests made by the Code Administrator for provision of information or documentation either for a compliance audit or an investigation of suspected breaches of this Code.
- c) We must comply with all reasonable requests made by the Code Review Panel (see paragraph C.3).

C.3.6. **General**

- a) We must not act in any way that might bring this Code into disrepute.
- b) We must not make any vexatious or unfounded claims against another signatory to the Code.
- c) We must co-operate with the Code Administrator carrying out its responsibilities under the Code.
- d) We must give the Code Administrator at least 2 weeks written notice if we decide to withdraw from the Code (we will not be entitled to any refund of fees or associated charges that we have paid prior to the date of receipt of that notice).

C.4 **BREACHES OF THE CODE**

- a) The Code Administrator will investigate potential breaches of the Code. Possible breaches may be identified by the Code Administrator including in the course of its compliance checking. Alternatively, breaches can be raised via:
 - i. self-reporting by Signatories; or
 - ii. by customers or any other person or body including by using the Code website dispute form.
- b) When investigating a breach, the Code Administrator will:
 - i. where the only source of information on a potential breach is raised by a third party (paragraph a)ii), request evidence of the breach from the third party;
 - ii. contact the Signatory in writing, providing details of the alleged breach as soon as practicable;

- iii. give the Signatory 21 days to respond to the Code Administrator setting out its comments and evidence on the alleged breach;
- iv. if the breach is not disputed, require the Signatory to explain the actions taken to address the alleged breach as soon as practicable;
- v. investigate and assess the issue as soon as reasonably practicable in order to minimise customer dissatisfaction and improve industry standards;
- vi. where a breach is found to have been made, depending on the severity:
 - allocate a sanction in accordance with paragraph C.1.5.e); or
 - provide documentation relating to the breach along with a recommended course of action to the Code Review Panel for consideration.
- c) In the event that the breach is handled solely by the Code Administrator, a Signatory is entitled to appeal the ruling to the Code Review Panel (paragraph C.2.1.c)).
- d) If a breach is referred to the Code Review Panel (either by the Code Administrator or by appeal), the Panel will determine if a breach has occurred and the subsequent action, if any, that will be taken against the Signatory.
- e) All parties involved in the complaint/breach will be notified of the outcomes of the investigation.
- f) All decisions by the Code Review Panel are binding.
- g) If the Code Review Panel considers the matter to be a major breach, the fact of the breach will be publicly listed on the Code website and in the Code Annual Report. If the breach is not rectified in a period of time that the Code Review Panel considers is reasonable in the circumstances, these listings will identify the name of the Signatory involved.
- h) The relevant regulator will be notified of any breach of ACL.

C.5 TERMINATION

- a) Serious, willful, systemic or repetitive non-compliance which is detrimental to customers may be cause to remove us as a Signatory to the Code with immediate effect.
- b) Suspension or cancellation of our status as Signatory can occur if:

- i. we fail to provide evidence that we have rectified or addressed a breach of the Code within a reasonable timeframe; or
 - ii. we have multiple breaches that signify a systematic failure to adhere to the Code. In this case, we can be suspended until we provide evidence that the systemic issue has been rectified.
- c) Where we have been suspended or withdrawn from the Code, the Code Administrator/Code Review Panel has the right to inform the general public and any interested party that we are no longer a signatory to the Code. We must also immediately cease to:
- i. describe ourselves as a Signatory to the Code;
 - ii. use the Code Brand Mark; and
 - iii. advertise or portray ourselves as in any way being connected to the Code.

C.6 APPEALS

- a) We are entitled to appeal the determination of the Code Administrator to the Code Review Panel, if we believe that the Code Administrator did not exercise reasonable discretion, that we were denied natural justice, or that new evidence has come to light that was not available at the time of original determination.
- b) We can lodge an appeal using the online appeals form.
- c) Our appeals must be lodged within one month of the original Code Administrator determination. They must be submitted in writing, detailing the relevant issue, and reasons why the appeal is being made.
- d) The Code Review Panel will consider and provide a ruling on the appeal in writing, along with reasons for the determination, as soon as reasonably practicable.
- e) All parties involved will be notified of the outcomes of the investigation.
- f) All decisions by the Code Review Panel are binding and there is no further right of appeal.

PART D - Glossary and Definitions

The definitions for terms used in this document are as follows.

Australian Consumer Law or ACL – Schedule 2 to the Competition and Consumer Act 2010 (Commonwealth).

Business day – A day that is not a Saturday, Sunday or public holiday in the relevant location in Australia.

Code Review Panel is the body established in accordance with section xx.

Complaint – Any expression of dissatisfaction with a product or service offered or provided, or with a complaints process.

Customer – A potential or existing residential customer or small business customer.

Designer – A designer of distributed energy resource systems.

Distributed energy resource products, systems and services are those that:

- a) generate, store, support, manage or trade energy or other distributed energy resources; and
- b) that operate either isolated from Australia's main transmission and distribution electricity grids (South West Interconnected System, North West Interconnected System, Darwin-Katherine Electricity Network and the National Electricity Market) or as distributed energy resources connected to an electricity grid.
- c) The term includes:
 - i. distributed energy resources owned by or leased to the customer that are connected to the grid for supplementary supply such as solar photovoltaic systems, wind turbines, bioenergy generators [any other examples?];
 - ii. energy supply services that are provided to the customer as part of a bundled package that also includes distributed energy resources that are connected to the grid;
 - iii. a microgrid that is fully isolated from the grid;
 - iv. a microgrid that has a connection to the grid whether for import or export purposes;
 - v. a stand-alone power system for a single customer, whether or not the customer is also connected to the grid;
 - vi. energy management systems and services supplied to a customer including battery management systems and services;

- vii. person to person energy trading systems and services;
 - viii. electric vehicle charging services; and
 - ix. suppliers of repair, maintenance and removal services for distributed energy resource products and systems.
- d) These examples are not intended to limit the scope of the definition. Rather the term has been defined so as to accommodate new products and services as they enter the Australian market.

Distribution – The activity of delivering electricity from the generator via wires to the end user (retail customers including homes, businesses, etc.).

Distributor – A distribution network service provider, which is an owner, controller or operator of an electricity distribution system.

Grid – One of Australia's principal electricity transmission and distribution grids (South West Interconnected System, North West Interconnected System, Darwin-Katherine Electricity Network, National Electricity Market).

Manufacturer – Includes a person or business who:

- a) grows, extracts, produces, processes or assembles goods
- e) portrays themselves to the public as the manufacturer of goods
- f) causes or permits their name, business name or brandmark to be applied to goods they supply
- g) permits themselves to be held out as the manufacturer by another person, or
- h) imports goods into Australia where the manufacturer of the goods does not have a place of business in Australia.

Residential customer – A customer that is purchasing distributed energy resource products, systems and services for domestic or household purposes.

Signed – Has the meaning of something signed in person or equivalent point of acceptance in accordance with the Electronic Transaction Act and other relevant legislation.

Small business customer – A customer that is a business or not for profit organisation that employs less than 100 full time equivalent employees not including casual employees. Associated entities are taken to be one entity when calculating the number of employees.