



# **ASP Level 1 Authorisation Agreement Contestable Vegetation Management**

February 2021



## SCOPE

This is an agreement between Ausgrid and a company or firm that has obtained *accreditation* as an *ASP/1*. It sets out the terms and conditions on which Ausgrid authorises the *ASP/1* company or firm and its employees to carry out *contestable Standard Vegetation Control (SVC)* near Ausgrid's *distribution system*.

## WARNING

It is the responsibility of the user of this document to ensure that only the current version is being used.

## DOCUMENT AND AMENDMENT HISTORY

Issue No.	Date	Approved By	Summary of Changes
1	5 February 2021	Head of Contract Delivery	Initial issue

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THIS Agreement is made on the            day of            20

BETWEEN

**THE AUSGRID OPERATOR PARTNERSHIP**, (ABN 78 508 211 731), trading as Ausgrid, a partnership carried on under that name by:

- (a) Blue Op Partner Pty Ltd (ACN 615 217 500) as trustee for the Blue Op Partner Trust;
- (b) ERIC Alpha Operator Corporation 1 Pty Ltd (ACN 612 975 096) as trustee for ERIC Alpha Operator Trust 1;
- (c) ERIC Alpha Operator Corporation 2 Pty Ltd (ACN 612 975 121) as trustee for ERIC Alpha Operator Trust 2;
- (d) ERIC Alpha Operator Corporation 3 Pty Ltd (ACN 612 975 185) as trustee for ERIC Alpha Operator Trust 3; and
- (e) ERIC Alpha Operator Corporation 4 Pty Ltd (ACN 612 975 210) as trustee for ERIC Alpha Operator Trust 4,

(Ausgrid)

AND

**The Company or Firm trading as an Accredited Service Provider Level 1** named in Item 1 of Annexure 1 (*ASP/1*)

## Background

- A** Ausgrid operates and maintains electricity *distribution network* assets in New South Wales and supplies electricity to more than 1.7 million homes and businesses across Sydney, the Central Coast and the Hunter regions.
- B** The NSW Work Cover Code of Practice - "Work Near Overhead Power Lines 2006" requires the permission of the relevant network operator before any works can be carried out in the *No Go Zone* as described in that Code of Practice. Consequently, before the *ASP/1* can carry out any *contestable vegetation management works* near Ausgrid's *distribution system*, it must be *authorised* by Ausgrid to do so.
- C** The *ASP/1* has been *accredited* in accordance with the *Accreditation Scheme* to carry out *contestable vegetation management works* near Ausgrid's *distribution system*.
- D** Ausgrid has agreed to *authorise* the *ASP/1* and employees and subcontractors of the *ASP/1* who are registered with the *accrediting agency* to carry out *contestable vegetation management works* near Ausgrid's *distribution system* on the conditions set out in this agreement and the *ASP/1* has agreed to Ausgrid's conditions.
- E** Part A of the agreement sets out the initial and continuing conditions of *authorisation* with which the *ASP/1* must comply while the agreement is in force and (where relevant) after it expires or is terminated.
- F** Part B of the agreement sets out the general provisions and interpretations relating to this agreement.

# Part A - Conditions of continuing authorisation

## 1 Conditions of authorisation

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### 1.1 All ASP/1 companies and firms to sign this agreement

An ASP/1 company or firm that does not have Ausgrid *authorisation* must sign this agreement before submitting an application in the form of Annexure 1 to this agreement.

Before an ASP/1 can renew an existing *authorisation*, the ASP/1 must sign this agreement.

### 1.2 Ausgrid to authorise ASP/1

To apply for *authorisation* or for an annual renewal of an existing *authorisation* the ASP/1 must submit to Ausgrid an application in the form of Annexure 1 to this agreement.

An ASP/1 will be *authorised* when:

- (a) The ASP/1 has:
  - (i) provided to Ausgrid the executed agreement;
  - (ii) provided to Ausgrid the correctly completed application in the form of Annexure 1 to this agreement;
  - (iii) attended an interview with Ausgrid to discuss operational processes;
  - (iv) complied with its obligations under this agreement to the extent that they needed to be performed at the application for *authorisation*; and
- (b) Ausgrid has executed this agreement and returned it to the ASP/1 together with a letter confirming *authorisation*, which execution must not be unreasonably delayed.

Where the ASP/1 has been *authorised* prior to the date of this agreement, Ausgrid will renew that *authorisation* each year provided the ASP/1 complies with the obligations set out in this agreement.

### 1.3 Compliance with Accreditation Scheme

The ASP/1:

- (a) undertakes that it will always comply with its responsibilities under the *Accreditation Scheme*;
- (b) acknowledges and agrees that if Ausgrid reasonably believes the ASP/1 has breached any of its responsibilities under the *Accreditation Scheme*, Ausgrid may suspend or terminate the *authorisation* of the ASP/1 and its employees in accordance with clause 4, whether or not *accreditation* has been suspended or terminated by the *accrediting agency*; and
- (c) acknowledges that if another ASP/1 company engages it to perform services as a subcontractor, the ASP/1 will remain responsible for ensuring the acts of its *authorised* employees comply with the *Accreditation Scheme*, whereas if another ASP/1 company engages individual employees of the ASP/1 to act as subcontractors but does not engage the ASP/1, that the other ASP/1 company will be responsible for the continuing *authorisation* of those employees for the term of the subcontracts.

### 1.4 Insurance

The ASP/1 warrants that:

- (a) it has obtained the insurance policies required under the *Accreditation Scheme*;
- (b) it will keep those policies current at all times;
- (c) if requested by Ausgrid, it will provide evidence of the currency of those policies;

- (d) it will notify Ausgrid within one *business day* if any of the policies is cancelled or any term of any policy is changed;
- (e) it will notify Ausgrid within one *business day* of notifying its insurance company or broker of any occurrence that may give rise to a claim under any of the policies; and
- (f) its public/products liability policy cites “the electricity distributors of NSW” as interested parties.

Ausgrid may immediately suspend the *ASP/1's authorisation* in accordance with clause 4 if:

- (g) any of the *ASP/1's* insurance policies required to be held under this agreement have not been renewed or are cancelled; or
- (h) the *ASP/1* has not complied with any obligation under this clause 1.4.

## 1.5 Annual fees

An *authorisation fee* is applicable for all accredited companies and individuals seeking *authorisation* or the renewal of *authorisation* for *work near* Ausgrid's *distribution system*.

The *authorisation fee* is determined by the Australian Energy Regulator under Ausgrid's distribution determination and the current fee may be ascertained by enquiry to Ausgrid or by consulting the current edition of Ausgrid's *connection policy*.

## 1.6 Authorisation of employees and subcontractors

Provided any applicable *authorisation fee* has been paid, Ausgrid will *authorise* each employee of the *ASP/1*:

- (a) in accordance with Ausgrid's procedures as they are set out from time to time in Ausgrid's publication *ES4*; and
- (b) as soon as reasonably practicable after receiving from the employee a correctly completed and signed *Individual Agreement for Ausgrid Authorisation*.

To avoid doubt:

- (c) any person conducting *contestable vegetation management works* must sign an *Individual Agreement for Ausgrid Authorisation*;
- (d) the *Individual Agreement for Ausgrid Authorisation* has no expiry date and remains in effect unless, from time to time, there are changes to Ausgrid's procedures that require employees to re-sign a new *Individual Agreement for Ausgrid Authorisation*; and
- (e) in circumstances where the *Individual Agreement for Ausgrid Authorisation* is required to be re-signed, an individual's *authorisation* will lapse unless Ausgrid has received a new, duly signed *Individual Agreement for Ausgrid Authorisation* before the requested date.

## 1.7 Qualifications, training and conduct

The *ASP/1* will ensure that no employee or subcontractor carries out *contestable vegetation management works* unless that employee or subcontractor:

- (a) is currently *authorised* in accordance with clause 1.6;
- (b) holds the qualifications stipulated in Ausgrid's *ES4*; and
- (c) has completed:
  - (i) training in Ausgrid's Electrical Safety Rules conducted by Ausgrid or by other training organisations on Ausgrid's behalf; and
  - (ii) all mandatory training and annual or other refresher training stipulated by Ausgrid from time to time, including but not limited to the training set out in *ES4*.

The *ASP/1* acknowledges that Ausgrid may:

- (d) suspend the *authorisation* of any employee or subcontractor of the *ASP/1* if it reasonably believes their training is not current or not in accordance with Ausgrid's training requirements at the relevant time; and

## **1.8 Annual renewal of authorisation and training**

Where the *ASP/1* wishes to renew its authorisation, it will ensure that it, and each of its employees and (where relevant) subcontractors, maintain all training and competency requirements to annually renew its authorisation on or before the due date.

## **1.9 ASP/1's acknowledgements**

The *ASP/1* acknowledges and agrees that:

- (a) it must ensure that each employee and subcontractor makes arrangements for annual training well in advance of the due date for renewal;
- (b) it will not permit any employee or subcontractor whose *authorisation* is not current to carry out *contestable vegetation management works* near *Ausgrid's distribution system*; and
- (c) Ausgrid is entitled to terminate this agreement or suspend the *authorisation* of the *ASP/1* or any of its employees or subcontractors who have failed to comply with Ausgrid's requirements for renewal in accordance with clause 4 and may do so despite the fact that termination or suspension may result in the *ASP/1* breaching any contract to carry out *contestable vegetation management works* between the *ASP/1* and the *ASP/1's principal*.

## **1.10 Obligations under this clause are continuing obligations**

The obligations under clause 1 continue throughout the life of this agreement and are preconditions to its renewal year by year.

## 2 Working near Ausgrid's distribution system

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### 2.1 Ausgrid's standards and other requirements

Whenever it carries out *contestable vegetation management works* the ASP/1 will comply and will ensure that all employees and subcontractors comply at all times with all applicable provisions of:

- (a) Ausgrid's Electrical Safety Rules;
- (b) Ausgrid's Network Standards including NS 174 Environmental Procedures, NS 174C Environmental Handbook for Construction and Maintenance and NS 179 Vegetation Management;
- (c) Ausgrid's Electricity Standards;
- (d) Ausgrid's Electricity Network Safety Management System;
- (e) any other Ausgrid requirement the subject of a Customer Installation Advice, Safety Alert or General Information Notice posted on Ausgrid's website;
- (e) the Service and Installation Rules of New South Wales (where relevant);
- (f) any conditions of consent imposed in relation to a development or proposal under the Environmental Planning and Assessment Act (NSW) 1979, whether by:
  - (i) a local council or other consent *authority*;
  - (ii) Ausgrid or other determining *authority*; or
  - (iii) both of the above;
- (g) the *laws* relating to performing works in, on or over a road, including but not limited to obtaining the roads *authority's* consent to do such works and complying with the roads *authority's* conditions of consent;
- (h) the *laws* relating to the protection of the *environment* and the control of environmental pollution;
- (i) the *energy laws*;
- (j) the *work health and safety legislation*;
- (k) the provisions of clauses 2.2 to 2.12 of this agreement; and
- (l) all other laws applicable to the performance of the *contestable vegetation management works*.

### 2.2 ASP/1's acknowledgements

The ASP/1 acknowledges that it must comply with Ausgrid's requirements as set out in this agreement and the documents referred to in this agreement and that a breach of any of the requirements of clause 2, including a breach by an employee or subcontractor, may have the following consequences.

- (a) A breach of any of the requirements of clause 2.1, including a breach by an employee or subcontractor, may lead to:
  - (i) an order to stop work on *contestable vegetation management works*; and
  - (ii) in the case of a *serious safety breach*, suspension of the ASP/1's *authorisation* and/or that of any of its employees or subcontractors in accordance with clause 4.
- (b) If Ausgrid requires, on reasonable safety grounds, that the ASP/1 remove an employee or subcontractor from a workplace, the ASP/1 will ensure that the employee or subcontractor takes no further part in *contestable vegetation management works* at any workplace under the ASP/1's control unless and until Ausgrid, acting reasonably, is satisfied that all grounds for concern with the conduct of the employee or subcontractor have been removed.
- (c) The ASP/1 acknowledges that:

- (i) failure to comply with the requirements of clause 2 may have an adverse effect on the *ASP/1's* grading; and
- (ii) a serious breach or repeated breaches of clause 2 may lead to the refusal or withdrawal of *accreditation* by the *accrediting agency*, which will in turn lead automatically to the suspension of *authorisation* in accordance with clause 4.

## 2.3 Work Health and Safety

When carrying out *contestable vegetation management works* the *ASP/1* is required to comply with the relevant parts of Ausgrid's safety management system, Electrical Safety Rules and other relevant policies.

The *ASP/1* is responsible for, and has control over, all aspects of health and safety for, or in connection with, the *contestable vegetation management works* including ensuring the management and control of all safety hazards and risks, including undertaking a complete review and assessment of any hazards and risks associated with the authorised works and identifying and implementing appropriate measures to control all such hazards and risks.

The *ASP* must provide a system of safety documentation and incident reporting in order to maintain a safe workplace. This requirement includes that the hazard and risk control assessment carried out by the *ASP/1* before commencing authorised work be documented in the form of a Safe Work Method Statement (**SWMS**) and Job Site Risk Assessment.

Ausgrid may rely on the information the *ASP/1* may provide to discharge its obligations under the *work health and safety legislation* and facilitate consultation, cooperation and coordination with other duty holders the *work health and safety legislation* (including other *accredited service providers*).

The *ASP/1* will at all times:

- (a) comply with its obligations under *Work Health and Safety legislation*;
- (b) ensure that its employees comply at all times with their obligations under those *laws*;
- (c) ensure that its subcontractors comply with their obligations under those *laws* at all times the subcontractor engages in *contestable vegetation management works* provided by the *ASP/1*;
- (d) ensure that its employees and subcontractors comply with the applicable *SWMS*;
- (e) ensure appropriate arrangements are in place to provide for and maintain all necessary training, instruction and supervision to persons performing work in connection with the *contestable services*, including all safety and competency training required under the *work health and safety legislation* and as reasonably requested by Ausgrid;
- (f) provide its employees and subcontractors with all necessary safety equipment and personal protective equipment and ensure that at all times, every employee and subcontractor uses that equipment as required;
- (g) co-operate with any person who has obligations under the *work health and safety legislation* that overlap with the *ASP/1's* obligations;
- (h) do whatever is necessary to ensure that its employees and subcontractors remain safe when they are present at the *ASP/1's* work site or a site where the *ASP/1* is, will be or has been engaged in *contestable vegetation management*. This may include notifying and co-ordinating with:
  - (i) the *principal contractor* at any site where the *ASP/1* and/or any of its employees or contractors are working; and/or
  - (ii) any other person who has possession, management and control of the site;
- (i) do whatever is necessary to ensure that Ausgrid's employees and subcontractors remain safe when they are present at the *ASP/1's* work site or a site where the *ASP/1* is, will be or has been engaged in *contestable vegetation management works*. This may include notifying and co-ordinating with Ausgrid and the person who has possession, management and control of the site;

- (j) ensure that it has a documented safety management system in place for undertaking the *contestable vegetation management works* prior to commencing the *contestable vegetation management works* and at all times while the *contestable vegetation management works* are being carried out;
- (k) ensure that its employees and subcontractors have copies of, and have reviewed the relevant systems/Electrical Safety Rules of Ausgrid (refer to section 2.1);
- (l) confirm that the *ASP/1* has reviewed the relevant systems/Electrical Safety Rules, as outlined in section 2.1, and is of the opinion that the relevant systems/Electrical Safety Rules are consistent with the *ASP/1*'s arrangements for managing health and safety of the authorised works;
- (m) ensure any materials and equipment used during the performance of the *contestable vegetation management* are safe, and without risks to health and safety, and are used safely and appropriately.

## 2.4 Supervision of persons under instruction

The *ASP/1* will ensure that no person under instruction carries out *contestable vegetation management works* unless that work is conducted:

- (a) in accordance with Ausgrid's Electrical Safety Rules and ES4; and
- (b) under the direct, immediate and constant supervision of an *authorised* person who is appropriately qualified to supervise each relevant task.

## 2.5 Environmental management

When carrying out *contestable vegetation management works* the *ASP/1* must:

- (a) adopt and implement all environmental management measures set out in Appendix A to the *accrediting agency's* document *Accreditation of Providers of Contestable Services*, ("Scheme Rules"), August 2016, as amended from time to time; and
- (c) comply with the requirements of Ausgrid's network standard NS174 Environmental Procedures.

The *ASP/1* acknowledges that failure to comply with the provisions of this clause will be reflected in the evaluation and grading of its performance as an *accredited service provider* and may in the case of repeated breaches or a serious breach of any *environmental legislation* lead Ausgrid to withdraw the *ASP/1's* *authorisation*.

For the purpose of this clause, "serious breach" means an act or omission that has led or in Ausgrid's reasonable opinion may lead to an offence under any *environmental legislation*.

## 2.6 ASP/1 Incident Investigations

Where an *ASP/1* incident requires an investigation or implementation of disciplinary or corrective action, Ausgrid may recover the costs associated with these works as per the *AER* approved quoted *ancillary service fees*. The rate for this service can be found in the *connection policy*, and is equivalent to the rate under the 'Investigation, review and implementation of remedial actions associated with *ASP's* *connection work*' service.

Ausgrid will notify the *ASP/1* prior to incurring charges for any investigation that will attract this fee.

### 3 General provisions relating to carrying out contestable vegetation works

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#### 3.1 Emissions and energy data under the NGER legislation

The *ASP/1* and Ausgrid acknowledge and agree that, for the purposes of the *NGER legislation*:

- (a) the *ASP/1* has, as between Ausgrid and the *ASP/1*, the greater authority to introduce and implement operating policies, environmental policies and health and safety policies in respect of the work the *ASP/1* (and any sub-contractor to the *ASP/1*) carries out under this agreement;
- (b) without prejudice to the other provisions of this agreement, the *ASP/1* has overall control over the work carried out under the agreement; and
- (c) if required under the *NGER legislation*, the *ASP/1* must report the greenhouse gas emissions and the production and consumption of energy attributable to the work carried out under this agreement.

#### 3.2 *ASP/1*'s indemnity to Ausgrid

The *ASP/1* indemnifies Ausgrid and will keep it indemnified against all damages, claims, demands, reasonable expenses (including lawyer's fees and expenses on a solicitor/client basis), all losses (including financial losses) or liabilities of any nature suffered or incurred by Ausgrid in respect of:

- (a) damage to property of Ausgrid (including but not limited to the *distribution systems*) resulting from an act or omission of the *ASP/1*;
- (b) damage, expense, loss or liability in respect of loss or damage to the property of any other person resulting from an act or omission of the *ASP/1*;
- (c) damage, expense, loss or liability in respect of personal injury, disease, injury or death resulting from an act or omission of the *ASP/1*; or
- (d) failure by Ausgrid to comply with or perform any of its statutory duties or delay in performing them as a consequence of any act or omission of the *ASP/1* or breach of this agreement by the *ASP/1* in connection with carrying out *contestable vegetation management works*;

but the indemnity shall be reduced proportionately to the extent that the act or omission of Ausgrid or its consultants, agents or other contractors (not being employed by the *ASP/1*) may have contributed to the injury, death, loss, damage, claims demands, liabilities or reasonable expenses incurred by Ausgrid.

Each party must use reasonable endeavours to mitigate any damage, expense, loss or liability it suffers or incurs.

## 4 Term and termination

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### 4.1 The term of this agreement

Unless terminated at an earlier date, this agreement expires on the first anniversary of its execution unless:

- (a) the *accrediting agency* has renewed the *ASP/1's accreditation*;
- (b) the *ASP/1* applies to Ausgrid for renewal of its *authorisation* in accordance with this agreement; and
- (c) *authorisation* occurs in accordance with clause 1 of this agreement.

This clause does not limit any right Ausgrid may have under other clauses of this agreement to terminate the agreement.

### 4.2 Individual authorisation agreements

Unless terminated at an earlier date, each *Individual Agreement for Ausgrid Authorisation* has no expiry date and remains in effect provided:

- (a) the *accrediting agency* has renewed the *ASP/1's accreditation*;
- (b) the individual employee or subcontractor maintains his or her *authorisation* in accordance with Ausgrid's requirements -as set out in *ES4*, including but not limited to payment of all applicable *authorisation fees*;
- (c) the employee or subcontractor has complied with all Ausgrid's conditions of *authorisation* and conditions of continuing *authorisation* as they are set out in this agreement and *ES4*; and
- (d) *authorisation* occurs in accordance with clause 1 of this agreement.

This clause does not limit any right Ausgrid may have under other clauses of this agreement or *ES4* to terminate an *Individual Agreement for Ausgrid Authorisation*.

### 4.3 Suspension by Ausgrid

Ausgrid may suspend the *ASP/1's authorisation* immediately by notice to the *ASP/1* (with immediate effect) if:

- (a) the *ASP/1* has failed to renew its *accreditation* with the *accrediting agency* on the due date;
- (b) the *ASP/1* suffers an *insolvency event*;
- (c) the *ASP/1* breaches its responsibilities under the *Accreditation Scheme*;
- (d) the *ASP/1* (or its employees or subcontractors) cause a *serious safety breach*;
- (e) the *accrediting agency* suspends or terminates the *ASP/1's accreditation*; and/or
- (f) the circumstances in clauses 1.4(f) or (g) arise.

Ausgrid may suspend an individual employee's or subcontractor's *authorisation* under the *Individual Agreement for Ausgrid Authorisation* immediately by notice to the individual employee or subcontractor (with immediate effect) if the individual employee or subcontractor:

- (g) has failed to renew its *accreditation* with the *accrediting agency* on the due date;
- (h) suffers an *insolvency event*; and
- (i) the circumstances in clause 1.7(d) have arisen.

### 4.4 Consequences of suspension

If Ausgrid exercises its rights under this agreement to suspend the *authorisation* of the *ASP/1* Ausgrid will identify in the notice pursuant to clause 4.3:

- (a) the reasons for the suspension in the notice of suspension; and
- (b) the issues that need to be rectified and the steps to be undertaken by the *ASP/1* before the suspension is lifted including steps necessary to prove that issues will not arise in the future.

On receipt of a notice of suspension of *authorisation* the *ASP/1* must immediately cease carrying out *contestable vegetation management works*.

When the *ASP/1* considers that it has rectified the issues and undertaken the steps identified in Ausgrid's notice above it may apply to Ausgrid in writing for the lifting of the suspension providing evidence satisfactory to Ausgrid that it has rectified the issues and undertaken the steps identified in Ausgrid's notice.

Within 10 *business days* of notification by the *ASP/1* that it considers that it has rectified the issues and undertaken the steps identified in Ausgrid's notice, Ausgrid must notify (in writing) the *ASP/1* that it considers that:

- (c) the *ASP/1* has rectified the issues and undertaken the steps identified in Ausgrid's notice and Ausgrid hereby lifts the suspension; or
- (d) Ausgrid is not satisfied that the *ASP/1* has rectified the issue and undertaken the steps identified in Ausgrid's notice, setting out in what respects the *ASP/1* has failed, and the provisions of this clause 4.4 will, without prejudice to Ausgrid's rights under clause 4, reapply until Ausgrid is satisfied and the suspension is lifted.

If the cause of the suspension is the suspension or termination of the *ASP/1's accreditation* by the *accrediting agency*, the suspension will not be lifted until such *accreditation* is restored, even if all other issues and steps have been rectified and undertaken.

If Ausgrid exercises its rights under this agreement to suspend the *authorisation* of any employee or subcontractor Ausgrid will identify in the notice pursuant to clause 4.5:

- (e) the reasons for the suspension in the notice of suspension; and
- (f) the issues that need to be rectified and the steps to be undertaken by the employee or subcontractor before the suspension is lifted including steps necessary to prove that issues will not arise in the future.

On receipt of a notice of suspension of *authorisation* the employee or subcontractor must immediately cease carrying out *contestable vegetation management works*.

When the employee or subcontractor considers that it has rectified the issues and undertaken the steps identified in Ausgrid's notice above the *ASP/1* may apply in writing for the lifting of the suspension providing evidence satisfactory to Ausgrid that the employee or subcontractor has rectified the issues and undertaken the steps identified in Ausgrid's notice.

Within 10 *business days* of notification by the *ASP/1* that it considers that the employee or subcontractor has rectified the issues and undertaken the steps identified in Ausgrid's notice, Ausgrid must notify (in writing) the *ASP/1* that it considers that the employee or subcontractor:

- (g) has rectified the issues and undertaken the steps identified in Ausgrid's notice and Ausgrid hereby lifts the suspension; or
- (h) Ausgrid is not satisfied that the employee or subcontractor has rectified the issues and undertaken the steps identified in Ausgrid's notice, setting out in what respects the employee or subcontractor has failed and the provisions of this clause 4.4 will, without prejudice to Ausgrid's rights under clause 4, reapply until Ausgrid is satisfied and the suspension is lifted.

## 4.5 Termination by Ausgrid

Ausgrid may terminate this agreement immediately by notice to the *ASP/1* (with immediate effect) if the *ASP/1*:

- (a) has failed to lift a suspension of its *authorisation* pursuant to clause 4.3 in accordance with clause 4.4 within 90 days after notice of the suspension by Ausgrid; or

(b) suffers an *insolvency event*.

Ausgrid may terminate an *Individual Agreement for Ausgrid Authorisation* immediately by notice to the individual employee or subcontractor (with immediate effect) if the individual employee or subcontractor:

(c) has failed to lift a suspension of its *authorisation* pursuant to clause 4.3, in accordance with clause 4.4, within 90 days after notice of the suspension by Ausgrid; or

(d) suffers an *insolvency event*.

#### **4.6 Consequences of termination**

If Ausgrid exercises its right to terminate this agreement Ausgrid will identify the reasons for the termination in the notice of termination.

On receipt of a notice of termination of this agreement the *ASP/1* must immediately cease carrying out *contestable vegetation management works*.

The *ASP/1* can only reapply for authorisation in accordance with clause 1 after 12 months from the date of termination. Any reapplication must provide evidence that the reasons for the termination have been addressed and are unlikely to occur in the future.

If Ausgrid exercises its right to terminate an *Individual Agreement for Ausgrid Authorisation* Ausgrid will identify the reasons for the termination in the notice of termination.

On receipt of a notice of termination of this agreement the employee or the subcontractor must immediately cease carrying out *contestable vegetation management works*.

The employee or subcontractor can only reapply for authorisation in accordance with clause 1 after 12 months from the date of termination. Any reapplication must provide evidence that the reasons for the termination have been addressed and are unlikely to occur in the future.

## 5 Dispute resolution

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### 5.1 Disputes concerning authorisation, suspension or termination

If the *ASP/1* wishes to appeal to Ausgrid against a decision:

- (a) not to *authorise* any person;
- (b) to suspend or not to renew any *authorisation*; or
- (c) to terminate any *authorisation*,

the *ASP/1* may appeal in writing within 20 *business days* of being notified of the decision. The notice of appeal must:

- (d) set out the legal basis of the appeal; and
- (e) set out the facts upon which the appeal is based; and
- (f) annexe copies of correspondence and any relevant background material.

Within 20 *business days* of receipt of a notice of appeal described above Ausgrid must notify the *ASP/1* that it:

- (g) affirms its previous decision;
- (h) reverses its previous decision; or
- (i) modifies its previous decision setting out the terms of the modification.

### 5.2 Other disputes

Either party may notify the other of a dispute arising out of or in connection with this agreement (including in connection with a decision that has been appealed in accordance with clause 5.1) by sending to the other a notice in writing which:

- (a) sets out the legal basis of the dispute;
- (b) sets out the facts upon which the dispute is based; and
- (c) annexes copies of correspondence and any relevant background material.

### 5.3 Project representatives to negotiate

The parties' representatives must meet within 2 *business days* after the notice of dispute is served and attempt in good faith to resolve the dispute.

If the representatives are unable to resolve the dispute within 10 *business days* after the notice is given, each party will refer the dispute to a senior officer of their organisation, who has authority to resolve the dispute or difference.

### 5.4 Senior officers to negotiate

The senior officers to whom the dispute is referred must meet within 5 *business days* of the referral and if necessary, at subsequent times and attempt in good faith to resolve the dispute.

If they fail to resolve the dispute within 20 *business days* of the meeting referred to in the previous paragraph, the parties must refer the dispute to mediation.

### 5.5 Mediation

Any dispute or difference shall be submitted to mediation in accordance with this clause, and to the extent not inconsistent with this clause, in accordance with and subject to, the Resolution Institute Mediation Rules published at the date of notification of the dispute in accordance with clause 5.2.

The parties will attempt to agree upon a mediator within 10 *business days* of the dispute being referred to mediation. If they fail to agree on a mediator within those 10 business days, the President of the Resolution Institute will appoint a Resolution Institute accredited mediator.

If the parties are unable to resolve the dispute by mediation within 2 months of its referral to mediation, either party may, after giving written notice to the other party of its intention to do so, commence litigation in respect of such dispute or difference.

## **5.6 Litigation**

The service of the notices under clauses 5.1 (if applicable), 5.2, 5.3, 5.4 and 5.5 is a condition precedent to the commencement of any litigation proceedings in respect of the dispute.

Notwithstanding the other provisions of this clause 5, the parties must continue to perform their obligations under this agreement, subject to Ausgrid's rights under the agreement to issue a *safety direction* to the *ASP/1* to cease work at any workplace.

Nothing in this clause 5 prevents a party from seeking urgent injunctive, declaratory or other interlocutory relief from a Court.

## **5.7 ASP/1 to attend meetings between Ausgrid and the ASP/1's principal**

If the *ASP/1* is requested to attend any meetings or mediation in relation to a dispute between Ausgrid and the *ASP/1's principal* or the person on whose behalf the *ASP/1's principal* is acting, the *ASP/1* must, at no expense to Ausgrid, attend those meetings or mediation and must, if Ausgrid requests, produce any documents relevant to the dispute.

## 6 Ausgrid access to premises and site safety

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For the purposes of this clause:

- (a) *premises controller* means the occupier of *premises* or if the *premises* are unoccupied, the person who has control of the *premises* whether under a contract or otherwise and whether or not that person is a *principal contractor* for the purposes of the *Work Health and Safety Regulation 2011* (NSW);
- (b) *premises* means any private or public *land* on which any *network asset* or *electrical installation* where *contestable vegetation management works* is being carried out;
- (c) if the *ASP/1* is not *premises controller*, it must take reasonable steps to ensure that the *premises controller* complies with this clause during *contestable vegetation management works*;
- (d) the *ASP/1* will co-operate and ensure that its employees, subcontractors and agents co-operate with Ausgrid in relation to the provision of Ausgrid's *contestable vegetation management works* to the owner or occupier of the *premises*; and
- (e) Ausgrid acknowledges that it has obligations under the work *health and safety legislation* and will do all things reasonably necessary to co-operate with the *premises controller* to ensure that Ausgrid's officers remain safe when they access the *premises*.

## 7 Environmental requirements

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### 7.1 Environmental requirements

The *ASP/1* must comply with:

- (a) any site specific environmental management plans; and
- (b) the requirements of Ausgrid's network standard NS 174 Environmental Procedures, including NS174C Environmental Handbook.

The *ASP/1* acknowledges and agrees that it must comply with any Ausgrid directives, including oral directives, concerning the management of environmental site conditions, the control of environmental emissions and pollutants and compliance with conditions of consent under Part 5 of the Environmental Planning and Assessment Act (1979). Following an oral directive, the *ASP* may request that directive from Ausgrid in writing if required.

# Part B – Interpretation and General

## 8 General provisions

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### 8.1 Amendment

This agreement may only be varied or replaced by a document duly executed by both parties.

### 8.2 Entire understanding

No oral explanation or undertaking given by one party to another shall:

- (a) affect the meaning or interpretation of this document; or
- (b) constitute any collateral agreement or arrangement between the parties.

### 8.3 Governing law

This agreement is governed by the *law* of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating in any way to the agreement.

### 8.4 Civil Liability Act

To the maximum extent permitted by *law* the parties agree that:

- (a) the *Civil Liability Act 2002* (NSW) will not have any application to the agreement, the performance of any of the obligations of the *ASP/1* under the agreement or at *law*; and
- (b) their rights, obligations and liabilities will be those which would exist if the *Civil Liability Act 2002* (NSW) did not apply.

## 9 Interpretation

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### 9.1 Definitions

Definitions are found in the Dictionary at clause 9. All words in italics are defined in the Dictionary.

### 9.2 Interpretation

In this agreement, unless there is an express provision to the contrary:

- (a) except for the definition of *energy laws*, departures in this agreement from terms defined in the *energy laws* are for convenience only;
- (b) words importing the singular include the plural and vice versa;
- (c) any gender includes the other genders;
- (d) all parts of speech apply to defined terms;
- (e) a reference to a person includes a natural person, firm, unincorporated association, corporation, government body, statutory body or *authority*;
- (f) a reference to a person includes its legal personal representatives, successors and assigns;
- (g) a reference to legislation, a statute, ordinance, policy, Ausgrid document, code or other *law* includes regulations, rules and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (h) a reference to The Service and Installation Rules of NSW, Ausgrid's Network Standards, Electricity Standards or Electrical Safety Rules is a reference to the version of the document in force when the reference applies;
- (i) a reference to a right includes a benefit, remedy, discretion, authority or power;
- (j) a reference to a "clause" is to a clause of this agreement;
- (k) headings are for convenience only and do not affect interpretation;
- (l) a reference to a "contract" includes an agreement and vice versa and includes any amended or varied contract or agreement.

# Part D – Dictionary

## 10 Dictionary

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Subject to clause 8.2, the following words have the following meanings:

**accreditation** means *approval* given by the *accrediting agency* to an *ASP/1* to offer and provide electrical or other services to customers who are entitled under section 31 of the Electricity Supply Act (NSW) 1995 to obtain goods and services in a competitive market.

**Accreditation Scheme** means the Scheme for Accreditation of Service Providers administered by the *accrediting agency* in accordance with the Electricity Supply (Safety and Network Management) Regulation 2014 (NSW).

**accredited service provider or ASP/1** means a person accredited as a level 1 accredited service provider in accordance with the *Accreditation Scheme* to provide *contestable vegetation management works* and for the purposes of this agreement means the accredited service provider level 1 who is party to the agreement.

**accrediting agency** means the instrumentality of the New South Wales government that administers the *Accreditation Scheme* and has accredited the *ASP/1* to provide *contestable vegetation management works* to customers or prospective customers of *DNSPs* in New South Wales.

**AER** means Australian Energy Regulator.

**annexure** means an annexure to this agreement.

**approval** means any approval, authorisation, certificate, consent, exemption, filing, licence, notarisation, permit, registration, ruling, statutory required policy of insurance or waiver (and any renewal or variation of any of them) by or with an *authority*.

**ASP/1's principal** means the person who has retained the *ASP/1* to perform *contestable vegetation management works*.

**authorisation** means Ausgrid's consent to the *ASP/1* and those of its employees and subcontractors who are registered with the *accrediting agency* to *work near* Ausgrid's *distribution system* and to conduct *contestable vegetation management works*.

**authorisation fee** means the annual fee imposed in accordance with the *Accreditation Scheme* for individual employees.

**authority** means any Government or regulatory department, body, instrumentality, minister, agency or any other authority.

**business day** means any week day, excluding week days that are gazetted public holidays in New South Wales and also excluding December 27, 28, 29, 30 and 31.

**compliance officer** means an employee of Ausgrid who monitors the *ASP/1's* performance of *contestable vegetation management works*, including but not limited to the performance of the *ASP/1's* obligations under this agreement and to avoid doubt, includes members of Ausgrid's Environmental Services Unit, Contract Services, and Electrical Safety & Authorisations sections.

**connection policy** means a document approved as a *connection policy* by the *regulator* under Chapter 6, Part E of the *rules*, setting out the circumstances in which *connection charges* are payable and the basis for determining the amount of such charges. Ausgrid's *connection policy* is available on our website.

**contestable vegetation management works** means vegetation works carried out by an *ASP/1* (on behalf of a person other than Ausgrid) near LV overhead mains in Ausgrid's network area, in accordance with the Standard Vegetation Control (SVC) requirements as defined by Ausgrid's ESR.

**distribution network** means the apparatus, equipment, plant and buildings used to convey and control the conveyance of electricity between generators' points of *connection* and customers' points of *connection* excluding any customer *connection assets*. To avoid doubt, for the purposes of this agreement Ausgrid's *distribution network* includes transmission and sub transmission assets operated by Ausgrid.

**distribution system** means the apparatus, equipment, plant and buildings comprising a *distribution network* and includes any customer *connection assets*.

**DNSP** means *distribution network service provider*.

**electrical installation** has the meaning it is given from time to time in the Electricity (Consumer Safety) Act 2004 (NSW) and at the date of this agreement means the electrical wiring and associated equipment that are used to convey and control the conveyance of electricity within *premises* to which electricity is supplied from a *distribution system*, but does not include Ausgrid's *designed assets* or anything connected to and extending or situated beyond an electrical outlet socket.

**energy laws** includes (as applicable and as amended from time to time) National energy legislation; New South Wales energy legislation; The National Energy Retail Rules and the *rules*; instruments made under the National Energy Retail Law, National Energy Retail Rules and New South Wales energy legislation; The Service and Installation Rules of New South Wales and instruments made by Ausgrid as permitted under those Rules; AS/NZ3000 Wiring Rules; Ausgrid's Electrical Safety Rules; Ausgrid's Network Standards; and Ausgrid's plans made under the Electricity Supply (Safety and Network Management) Regulation 2014.

**environment** includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings and all components of the earth, including:

- (a) *land*, air and water;
- (b) any layer of the atmosphere;
- (c) any organic or inorganic matter and any living organism;
- (d) human-made or modified structures and areas; and
- (e) interacting natural ecosystems that include components referred to in (a) to (c) above.

**environmental legislation** means all legislation (including subordinate legislation) of New South Wales and the Commonwealth (as amended from time to time) that relates in any way to the *environment* and to avoid doubt includes the Environmental Planning and Assessment Act (NSW) 1979 or any Act replacing that Act.

**environmental requirements** means a system of environmental management to be drawn up and adopted by the *ASP/1*, taking into account Ausgrid's obligations under *environmental legislation*

**ES4** means Ausgrid's publication Network Standard NW000-S0140 *ES4 Accredited Service Provider Authorisation* (as amended from time to time).

**Individual Agreement for Ausgrid Authorisation** means the agreement entered into by Ausgrid and the employees and subcontractors working under the *ASP/1's authorisation* in accordance with the requirements of *ES4*.

**insolvency event** means, in respect of an entity:

- (a) the entity informs Ausgrid in writing (or creditors generally) that the entity is insolvent or is financially unable to proceed with any *project*;
- (b) a creditor executes against the entity;
- (c) a mortgagee of any of the entity's property takes possession of that property;
- (d) if the entity is a corporation:
  - it enters a deed of company arrangement with creditors;
  - a controller or administrator is appointed;

- a winding up application is made to a court and not stayed within 14 days;
  - a winding up order is made;
  - it resolves that it be wound up voluntarily (other than for a member's voluntary winding up); or
  - notice is given of a meeting of creditors with a view to the corporation entering a deed of company arrangement;
- (e) if the entity is an individual person or a partnership including an individual person, and:
- commits an act of bankruptcy;
  - presents or is the subject of a bankruptcy petition;
  - is made bankrupt;
  - makes a proposal for a scheme of arrangement or a composition; or
  - enters into a deed of assignment or deed of arrangement, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under Part X of the *Bankruptcy Act 1966* (Cwth) or like provision under Australian law.

**land** means a lot in which Ausgrid is entitled to acquire a registered interest to protect *premises connection assets* placed on that lot in accordance with a deed of agreement with respect to the *premises*.

**law** means any legislation, delegated legislation, regulations or any rules, instruments, notices or directions published by an *authority* including the *energy laws*.

**near** means as defined in Ausgrid's Electrical Safety Rules.

**NGER legislation** means the National Greenhouse and Energy Reporting Act (2007) (Cth).

**No Go Zone** means the zone so described in the Work Cover Code Of Practice "Work Near Overhead Power Lines 2006" and requires the permission of the relevant network operator before any works can be carried out in the *No Go Zone* as described in that Code of Practice.

**premises** includes any building or part of a building, any structure or part of a structure, any *land* (whether built on or not) and any river, lake or other waters and for the purposes of this agreement means the *premises* in relation to which the *ASP/1* provides *contestable vegetation management works*.

**premises controller** has the meaning given in clause 6.

**principal** means the person for whom a *connection applicant* acts as agent for the purposes of a *connection contract*.

**principal contractor** bears the meaning given in the *Work Health and Safety Regulation 2011* (NSW).

**rules** means the National Electricity Rules established (and amended from time to time) under the National Electricity Law.

**safety direction** means a direction given by an Ausgrid *compliance officer* to the *ASP/1* or any employee or subcontractor of the *ASP/1* in relation to workplace safety or electrical safety and, to avoid doubt, includes an oral direction given at a workplace without prior notice. Following an oral directive, the *ASP/1* may request that directive from Ausgrid in writing if required.

**serious safety breach** means a breach of the *ASP/1's* safety obligations under this agreement and the *work health and safety laws* that in Ausgrid's opinion constitutes a threat to the health or safety of any person or the safe operation of Ausgrid's *distribution system*.

**work health and safety legislation** means the *Work Health and Safety Act 2011* (NSW), the *Work Health and Safety Regulation 2011* (NSW), the *Electricity (Consumer Safety) Act* (NSW) 2004 and the *Electricity (Consumer Safety) Regulation* (NSW) 2006 as amended from time to time.

ASP/1 Company/Firm Name: .....

ASP/1 Accreditation Number: .....

This agreement is executed the ..... day of ..... 20 .....

Executed for and on behalf of

**Ausgrid** by its authorised officer

in the presence of

.....  
Signature of Witness

.....  
Signature of authorised officer

.....  
Name of Witness (print name)

.....  
Name of authorised officer (print name)

.....  
Position and sub-delegation of authorised officer

[Select appropriate execution clause]

Executed for and on behalf of

**the ASP/1** in accordance with section 127(1)

of the Corporations Act 2001:

.....  
Director/Company Secretary

.....  
Director

.....  
Name of Director/Company Secretary (print name)

.....  
Name of Director (print name)

**OR**

Executed for and on behalf of

**the ASP/1** by its Authorised Representative

in the presence of

.....  
Signature of Witness

.....  
Signature of authorised officer

.....  
Name of Witness (print name)

.....  
Name of authorised officer (print name)

.....  
Position of authorised representative

A copy of the signatory's authority must be attached.

# ANNEXURE 1 – Authorisation of ASP/1 Company or Firm



**PART 1: Company ASP/1 Details** *(Please use BLOCK LETTERS)*

Name of company/firm:

ABN:

ASP/1 Accreditation No:

Company Postal address:

Company E-mail:

Company Phone No:

**Company Legal Representative and Primary Contact Details**

Name:

Title:

Company position: *(Director, etc.)*

E-mail:

Phone no:

Signature:

Date:

**PART 2: Agreement Validity (Ausgrid Use Only)**

Agreement valid until date:

*(12 months from existing agreement expiry)*